



**Law 2121/1993**  
**Copyright, Related Rights and**  
**Cultural Matters**  
**Official Gazette A 25 1993**

## **ANNEX**

**According to article 49 of Law 3905/2010 (Official Gazette:A 219/23.12.2010) the following amendments have been adopted in Law 2121/1993**

1. Article 49 of Law 2121/1993 added paragraphs 6 and 7 as follows:

"6. Collecting societies of related rights operating with the approval of the Minister of Culture and Tourism may establish a single collecting society for the collection of the single equitable remuneration as referred to in paragraphs 1, 2 and 3 of this article. Collecting societies operating with the approval of the Minister of Culture exclusively assign to the single collecting society the power to negotiate, agree the level of pay, raise the relevant claims for payment, raise a court action or any extra-judicial action and collect relevant fees from users. During its operation the single collecting society of related rights has the sole responsibility to negotiate, agree the level of pay, raise the relevant claims for payment, raise a court action or any extra-judicial action and collect relevant fees from users.

In case of disagreement between the single collecting society and the users, the amount of equitable remuneration payable and the terms of payment are determined by a single member court in the proceedings for interim relief. At the request of the single collecting society, the competent court issues its final judgement on the remuneration.

For the single collecting society of related rights to be granted approval and any other matter pertaining to collective management, the provisions of Articles 54 to 58 of Law 2121/1993 apply.

7. Pending litigation during the time that the single collecting society is being established is pursued by the original parties until it is irrevocably resolved. "

2. At the end of the one-before-last sentence of paragraph 1 Article 49 of Law 2121/1993 a new phrase is added as follows: "at the request of collecting societies".

3. After the first sentence of paragraph 2 Article 55 of Law 2121/1993 two new sentences are added as follows:

"Where a collecting society operating with the approval of the Minister of Culture and Tourism exercises the right to a single equitable remuneration as described in paragraph 1 Article 49 of this Law it shall be presumed that such collecting society represents without exception all beneficiaries, both national and foreign, and all their works. In such a case, the same shall be presumed where, for each category of beneficiaries there are more collecting societies, given that the rights are exercised by the competent collecting societies altogether."

4. At the end of paragraph 4 Article 55 of Law 2121/1993 a new sentence is added as follows: "This provision does not apply in the case of compulsory collective management as described in paragraph 1 Article 49 of this Law."

5. In paragraph 2 Article 63 of Law 2121/1993, the terms "police permit" are replaced by the terms "city permit."

6. At the end of paragraph 2 Article 65A of Law 2121/1993 a new paragraph is added as follows: "The same applies to the reproduction and distribution of physical carriers of sound in shops."

7. In paragraph 4 Article 65A of Law 2121 / 1993 after the term "police" the term "port" is added.

8. In the first sentence of paragraph 3 Article 18 of Law 2121/1993, the term "namely" is replaced by the word "as".

14. In Article 72 of Law 2121/1993 a new paragraph is added as follows: "9. By means of a Presidential Decree issued upon proposal of the Minister of Culture and Tourism, the legislation on copyright and related rights may be coded, as far as administration is concerned, in full, the sequence and numbering of provisions may be altered, similar provisions may be merged and, in general, any modification necessary for the administrative encoding of such legislation may be applied. "



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## **SECTION I**

### **OBJECT AND CONTENT OF COPYRIGHT**

#### **Article 1**

##### **Copyright**

(1) Authors shall have, with the creation of the work, the right of copyright in that work, which includes, as exclusive and absolute rights, the right to exploit the work (economic right) and the right to protect their personal connection with the work (moral right).

(2) The above-mentioned rights shall include the powers to authorize that are provided for in Articles 3 and 4 of this Law.

#### **Article 2**

##### **Object of the Right**

(1) The term 'work' shall designate any original intellectual literary, artistic or scientific creation, expressed in any form, notably written or oral texts, musical compositions with or without words, theatrical works accompanied or unaccompanied by music, choreographies and pantomimes, audiovisual works, works of visual art, including drawings, works of painting and sculpture, engravings and lithographs, works of architecture and photographs, works of applied art, illustrations, maps and three-dimensional works relative to geography, topography, architecture or science.

(2) The term 'work' shall, in addition, designate translations, adaptations, arrangements and other alterations of works or of expressions of folklore, as well as collections of works or collections of expressions of folklore or of simple facts and data, such as encyclopaedias and anthologies, provided the selection or the arrangement of their contents is original. Protection afforded to the works listed in this paragraph shall in no way prejudice rights in the pre existing works, which were used as the object of the alterations or the collections.

(2a.) Databases which, by reason of the selection or arrangement of their contents, constitute the author's intellectual creation, shall be protected as such by copyright. Copyright protection shall not extend to the contents of databases and shall be

without prejudice to any rights subsisting in the contents themselves. The term 'database' shall mean a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means (articles 3 and 1, paragraph 2 of Directive 96/9).

(3) Without prejudice to the provisions of Section VII of this Law, computer programs and their preparatory design material shall be deemed to be literary works within the meaning of the provisions on copyright protection. Protection in accordance with this Law shall apply to the expression in any form of a computer program. Ideas and principles which underlie any element of a computer program, including those which underlie its interfaces, shall not be protected under this Law. A computer program shall be protected if it is original in the sense that it is the author's personal intellectual creation.

(4) The protection afforded under this Law shall apply regardless of the value of the work and its destination and regardless of the fact that the work is possibly protected under other provisions.

(5) The protection afforded under this Law shall not apply to official texts expressive of the authority of the State, notably to legislative, administrative or judicial texts, nor shall it apply to expressions of folklore, news or simple facts and data.

### Article 3

#### Economic Rights

(1) The economic rights shall confer upon the authors notably the right to authorize or prohibit:

- a) the fixation and direct or indirect, temporary or permanent reproduction of their works by any means and in any form, in whole or in part
- b) the translation of their works
- c) the arrangement, adaptation or other alteration of their works
- d) with respect to the original or copies of their works, the distribution to the public in any form by sale or otherwise. The distribution right shall be exhausted within the Community only where the first sale or other transfer of ownership in the Community of the original or copies is made by the rightholder or with his

consent

e) the rental or public lending concerning the original or copies of their works. Such rights shall not be exhausted by any sale or other act of distribution of the original or copies thereof. Such rights shall not apply to architectural works and works of applied art. The rental and public lending shall have the meaning provided by the Council Directive 92/100 of 19 November 1992 (Official Journal of the European Communities No. L 346/61-27.11.1992).

f) the public performance of their works

g) the broadcasting or rebroadcasting of their works to the public by radio and television, by wireless means or by cable or by any kind of wire or by any other means, in parallel to the surface of the earth or by satellite

h) the communication to the public of their works, by wire or wireless means or by any other means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them. These rights shall not be exhausted by any act of communication to the public as set out in this provision

i) the import of copies of their works produced abroad without the creator's consent or the import of copies from a country outside the European Community, when the right over such import in Greece had been retained by the creator through contract (articles 2, 3 paragraphs 1 and 3, 4 of Directive 2001/29/EC No. L. 167/10-22.6.2001).

(2) The use, performance or presentation of the work shall be deemed to be public when the work thereby becomes accessible to a circle of persons wider than the narrow circle of the family and the immediate social circle of the author, regardless of whether the persons of this wider circle are at the same or at different locations.

(3) The author of a database shall have the exclusive right to carry out or to authorize:

- a) temporary or permanent reproduction by any means and in any form, in whole or in part,
- b) translation, adaptation, arrangement and any other alteration,
- c) any form of distribution to the public of the database or of copies thereof. The first sale in the Community of a copy of the database by the rightholder or with his consent shall exhaust the right to control resale of that copy within the Community,

d) any communication, display or performance to the public,

e) any reproduction, distribution, communication, display or performance to the public of the results of the acts referred to in (b) hereof. The performance by the lawful user of a database or of a copy thereof of any of the acts listed hereinabove which is necessary for the purposes of access to the contents of the databases and normal use of the contents by the lawful user shall not require the authorization of the author of the database. Where the lawful user is authorized to use only part of the database, this provision shall apply only to that part. Any agreement contrary to the provisions of the previous two sentences shall be null and void (articles 5, 6 paragraph 1, and 15 Directive 96/9 ).

(4) Reproduction of an electronic database for private use shall not be permitted.

## Article 4

### Moral Rights

(1) The moral rights shall confer upon the author notably the following rights:

- a) to decide on the time, place and manner in which the work shall be made accessible to the public (publication)
- b) to demand that his status as the author of the work be acknowledged and, in particular, to the extent that it is possible, that his name be indicated on the copies of his work and noted whenever his work is used publicly, or, on the contrary, if he so wishes, that his work be presented anonymously or under a pseudonym
- c) to prohibit any distortion, mutilation or other modification of his work and any offence to the author due to the circumstances of the presentation of the work in public
- d) to have access to his work, even when the economic right in the work or the physical embodiment of the work belongs to another person; in those latter cases, the access shall be effected with minimum possible nuisance to the rightholder
- e) in the case of a literary or scientific work, to rescind a contract transferring the economic right or an exploitation contract or license of which his work is the object, subject to payment of material damages to the other contracting party, for the pecuniary loss he has sustained, when the author considers such action to be necessary for the protection of his personality because of changes in his beliefs or in the circumstances.

(2) With reference to the last case of the preceding paragraph, the rescission shall take effect after the payment of the damages. If, after the rescission, the author again decides to transfer the economic right, or to permit exploitation of the work or of a like work, he must give, in priority, the former other contracting party the opportunity to reconstitute the old contract with the same terms or with terms similar to those which were in force at the time of the rescission.

(3) The moral rights shall be independent from the economic rights and shall remain with the author even after the transfer of the economic rights.

## Article 5

### Resale Right-Droit de suite

(1) The author of an original work of art shall have a resale right, to be defined as a non transferable inalienable right inter vivos, which cannot be waived to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author or on behalf of the author. This right shall apply exclusively to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art. The royalty shall be payable by the seller. When an intermediary art market professional is involved, he shall share liability with the seller for payment of the royalty (article 1, paragraphs 1, 2 and 4 of Directive 2001/84).

(2) 'Original work of art' shall mean works of graphic or plastic art such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glassware and photographs, provided they are made by the artist himself or are copies considered to be original works of art. Copies of works of art, which have been made in limited numbers by the artist himself or under his authority, shall be considered to be original works of art for the purposes of the resale right. Such copies will normally have been numbered, signed or otherwise duly authorised by the artist (article 2 of Directive 2001/84).

(3) The royalty provided for in paragraph (1) hereof shall be set at the following rates:

- a) 5% for the portion of the sale price up to EUR 50,000.00;
- b) 3% for the portion of the sale price from EUR 50,000.01 to EUR 200,000.00;



- c) 1% for the portion of the sale price from EUR 200,000.01 to EUR 350,000.01;
- d) 0,5% for the portion of the sale price from EUR 350,000.01 to EUR 500,000.00;
- e) 0,25% for the portion of the sale price exceeding EUR 500,000.00.

However, the total amount of the royalty may not exceed EUR 12,500.00 (articles 3 and 4 of Directive 2001/84).

(4) The sale prices referred to in the previous paragraph are net of tax (article 5 of Directive 2001/84).

(5) The royalty provided hereinabove shall be payable to the author of the work and, after his death, to those entitled under him.

(6) The management and protection of the resale right may be assigned to collecting societies operating by resolution of the Ministry of Culture, for the category of works referred to in paragraph (2) (article 6 of Directive 2001/84).

(7) For a period of three years after the resale, rightholders and collecting societies may require from any art market professional mentioned in paragraph (1) hereinabove to furnish any information that may be necessary to secure payment of royalties in respect of the resale. The Chamber of Fine Arts of Greece shall also be entitled to collect such information (article 9 of Directive 2001/84).

(8) The term of protection of the resale right shall correspond to that laid down in articles 29, 30, 31, paragraphs (1) and (2) of this Law (article 8, paragraph 1 of Directive 2001/84).

(9) Authors who are nationals of third countries and their successors in title shall enjoy the resale right in accordance with national law only if legislation in the country of which the author or his successor in title is a national permits resale right protection in that country for Greek authors or authors from other EU Member States and their successors in title. Authors who are not nationals of a Member State but who have their habitual residence in Greece shall also enjoy the resale right (article 7, paragraphs 1 and 3 of Directive 2001/84).

## SECTION II

### THE INITIAL SUBJECT OF COPYRIGHT

#### Article 6

##### The Initial RightHolder

(1) The initial holder of the economic right and the moral right in a work shall be the author of that work.

(2) The above-mentioned rights shall be initially vested in the author of a work without resort to any formality.

#### Article 7

##### Works of Joint Authorship, Collective and Composite Works

(1) The term 'work of joint authorship' shall designate any work which is the result of the direct collaboration of two or more authors. The initial rightholders in respect of the economic and moral rights in a joint work shall be the co authors of that work. Unless otherwise agreed, the rights shall be shared equally by the co authors.

(2) The term 'collective work' shall designate any work created through the independent contribution of several authors acting under the intellectual direction and coordination of one natural person. That natural person shall be the initial rightholder of the economic right and the moral right in the collective work. Each author of a contribution shall be the initial rightholder of the economic right and the moral right in his own contribution, provided that that contribution is capable of separate exploitation.

(3) The term 'composite work' shall designate a work which is composed of parts created separately. The authors of all of the parts shall be the initial co-rightholders of the rights in the composite work, and each author shall be the exclusive initial holder of the rights of the part of the composite work that he has created, provided that that part is capable of separate exploitation.

## Article 8

### Works Created by Employees

Where a work is created by an employee in the execution of an employment contract the initial holder of the economic and moral rights in the work shall be the author of the work. Unless otherwise provided by contract, only such economic rights as are necessary for the fulfilment of the purpose of the contract shall be transferred exclusively to the employer.

The economic right on works created by employees under any work relation of the public sector or a legal entity of public law in execution of their duties is ipso jure transferred to the employer, unless otherwise provided by contract.

## Article 9

### Audiovisual Works

The principal director of an audiovisual work shall be considered as its author.

## Article 10

### Presumptions

(1) The person whose name appears on a copy of a work in the manner usually employed to indicate authorship, shall be presumed to be the author of that work. The same shall apply when the name that appears is a pseudonym, provided that the pseudonym leaves no doubt as to the person's identity.

(2) In the case of collective works, computer programs or audiovisual works, the natural or legal person whose name or title appears on a copy of the work in the manner usually employed to indicate the rightholder shall be presumed to be the rightholder of the copyright in the particular work.

(3) Paragraph (1) of this article shall apply mutatis mutandis to the holders of rights related to copyright with regard to their protected subject matter, as well as to the database makers with regard to their sui generis right (article 5, (b') of Directive 2004/48).

(4) The presumption referred to in paragraphs (1) and (2), hereinabove, may be rebutted by evidence to the contrary.

## Article 11

### Fictitious Initial Rightholder

(1) Any person who lawfully makes available to the public anonymous or pseudonymous works is deemed as the initial holder of the economic and moral right towards third parties. When the true author of the work reveals his identity, he shall acquire the above-mentioned rights in the condition they are in, as a result of the actions of the fictitious rightholder.

(2) In the case of the previous paragraph, the moral right shall belong to the fictitious rightholder to the extent justified by his actual capacity.

## SECTION III

## TRANSFER, EXPLOITATION AND EXERCISE OF RIGHTS

## Article 12

### Transfer

(1) The economic right may be transferred between living persons or mortis causa.

(2) The moral rights shall not be transferable between living persons. After the death of an author, the moral rights shall pass to his heirs, who shall exercise the rights in compliance with the author's wishes, provided that such wishes have been explicitly expressed.

## Article 13

### Exploitation Contracts and Licenses

(1) The author of the work may conclude contracts, by which to assign economic rights to the other contracting party (exploitation contracts). The other party to the contract undertakes the obligation to exercise the rights thus assigned.

(2) The author of the work may authorize another person to exercise economic rights (exploitation licenses).

(3) Exploitation contracts and licenses may be exclusive or non-exclusive. Exclusive

exploitation contracts and licenses shall empower the other contracting party to exercise the rights conferred by the contract or license excluding any third person. Non-exclusive exploitation contracts and licenses shall give the right to the other contracting party to exercise the rights conferred by the contract or license in parallel to the author and other contracting parties. In the absence of an agreement to the contrary, the other contracting party shall be entitled in its own name to seek legal protection against illegal infringements by third parties of the rights it exercises.

(4) Where doubt exists about the exclusivity of an exploitation contract or license the contract or license shall be deemed to be non-exclusive.

(5) The contract or license may under no circumstance confer any right over all the future works of the author, and shall never be deemed to also refer to forms of exploitation which were unknown on the date of the contract.

(6) The rights of a person who undertakes to carry out the exploitation of a work or who acquires the possibility of exploitation may not be transferred between living persons without the consent of the author.

## **Article 14**

### **Form of Contracts and Licenses**

Acts dealing with the transfer of economic rights, with the assignment or licensing of the right of exploitation and with the exercise of the moral right shall be null and void, unless they are concluded in writing. Nullity may be invoked only by the author.

## **Article 15**

### **Extent of Transfer and of Exploitation Contracts and Licenses**

(1) The transfer of the economic right and exploitation contracts or contracts licensing the exploitation of that right may restrict the rights they confer, their scope and duration, the geographical application and the extent or the means of exploitation.

(2) If the duration of the transfer or of the exploitation contract or license is unspecified, its duration shall be deemed to be limited to five years, provided fair

practice do not indicate otherwise.

(3) If the geographical application of the transfer or of the exploitation contract or license is unspecified, the said legal acts shall be deemed to apply to the country in which they were concluded.

(4) If the extent and the means of exploitation which the transfer concerns or for which the exploitation or the exploitation license is agreed are unspecified, it shall be deemed that the said acts refer to the extent and the means that are necessary to achieve the purpose of the contract or license.

(5) In all cases involving the transfer of the economic right or the granting of an exclusive exploitation license, the person who acquires the right or the license is obliged, within a reasonable period of time, to make the work available to the public via an appropriate form of exploitation.

## **Article 16**

### **Consent of the Author as Exercise of the Moral Right**

The granting of consent by an author for an action or an omission which would otherwise constitute an infringement of his moral right shall be deemed to be a form of exercise of his moral right, and shall be binding upon him.

## **Article 17**

### **Transfer of the Physical Carrier**

Unless there exists prior agreement to the contrary, in writing, with the initial rightholder of the economic right, the transfer of the ownership of the physical carrier into which the work has been incorporated, whether in the original form or in any form of copy, shall not constitute a transfer of the copyright or confer on the new owner any rights to exploit the work.

## SECTION IV

### LIMITATIONS ON THE ECONOMIC RIGHT

#### Article 18

##### Reproduction for Private Use

(1) Without prejudice to the provisions laid down in the following paragraphs, it shall be permissible for a person to make a reproduction of a lawfully published work for his own private use, without the consent of the author and without payment. The term 'private use' shall not include use by an enterprise, a service or an organization.

(2) The freedom to make a reproduction for private use shall not apply when the act of reproduction is likely to conflict with normal exploitation of the work or to prejudice the author's legitimate interests, and notably:

- a) when the reproduction is an architectural work in the form of a building or similar construction.
- b) when technical means are used to reproduce a visual art work which circulates in a restricted number of copies, or when the reproduction is a graphical representation of a musical work.

(3) If, for the free reproduction of the work, use is made of technical media, such as recording equipment for sound or image or sound and image, equipment or parts incorporated or not in the main computer unit operating in conjunction therewith, used solely for digital reproduction or digital transcription to or from analog media (with the exception of printers), magnetic tapes or other devices for the reproduction of sound or image or sound and image, including digital reproduction devices - such as CD-RW, CD-R, portable optical magnetic discs with a capacity of more than 100 million digits (over 100 Mbytes), storage media/disquettes of less than 100 million digits (less than 100 Mbytes) - photocopy machines, photocopy paper, equitable remuneration shall be due to the author of the work and the rightholders of related rights under this provision, with the exception of assets to be exported. The remuneration shall be set at 6% of the value of the devices for the reproduction of sound or image or sound and image, including devices or parts not incorporated or not susceptible to incorporation in the main computer unit (with the exception of scanners), magnetic tapes or other devices suitable for the

reproduction of sound or image or sound and image as well as digital reproduction devices - with the exception of storage media/ disquettes of less than 100 million digits (less than 100 Mbytes) - and at 4% of the value of the photocopy machines, scanners, photocopy paper and storage media (disquettes) with a capacity of less than 100 million digits (less than 100 Mbytes). In any event, the value shall be calculated on import or distribution from the factory. The remuneration shall be paid by the importers or producers of such items and is noted in the invoice; it shall be collected by collecting societies operating with the approval of the Ministry of Culture and covering in whole or in part the concerned category of rightholders. The remuneration collected for the import or production of photocopy machines, photocopy paper, storage media (disquettes) of less than 100 million digits and scanners (4%) is distributed in half between the intellectual creators and publishers of printed material. The remuneration collected for the import or production of recording devices and sound or image or sound and image devices, devices and parts not incorporated in the main computer unit (6%), as well as digital reproduction devices, with the exception of storage media (disquettes) of less than 100 million digits, shall be distributed as follows: 55% to the intellectual creators, 25% to the performers or performing artists and 20% to the producers of recorded magnetic tapes or other recorded devices for sound or image or sound and image.

The term of 'photocopying machines or devices' shall also include any multi-machine capable of reproduction by photocopy.

(4) Every collecting society shall be entitled to request at any time any debtor, by written notification, to declare the following by statutory declaration of Law 1599/1986 to the Hellenic Copyright Organization:

- a) the total value of the sound or visual or audiovisual recording equipment, the sound or visual or audiovisual recordings, photocopier machines, photocopier paper, computers or other technical means used for the reproduction of sound which were imported or made available and
- b) that that is the real total value, without any omissions thereof

Within one month from the notification, the debtor is obliged to submit the said statutory declaration to the Hellenic Copyright Organization which should be signed by the debtor, if a personal enterprise, or the legal representative, if a company.

(5) The collecting societies shall not be entitled to request the same debtor to submit a new statutory declaration before the lapse of at least six months from the

submission of the immediately preceding statutory declaration.

(6) If the debtor does not comply with the obligation to submit the statutory declaration referred to hereinabove, the court of first instance, by the procedure of injunction measures, may order the immediate submission of the statutory declaration; in case of non compliance, a pecuniary fine of one to ten million drachmas shall be imposed in favour of the applicant collecting society.

(7) If within twenty days from the publication of the said court order, the debtor does not comply with the obligation to submit the statutory declaration, the time limit of six months as set out hereinabove shall be lifted regardless of any other sanction, and the collecting society shall be entitled to request the submission of a statutory declaration every month. In such a case, the provisions of the immediately preceding paragraph shall apply for every statutory declaration.

(8) Every collecting society, at its own cost, shall be entitled to request the investigation of the accuracy of the contents of any statutory declaration by a certified accountant appointed by the Hellenic Copyright Organization. In the case that the debtor refuses to comply with the said investigation, the court of first instance may order the investigation as set out hereinabove. The report of the certified accountant shall be submitted to- the Hellenic Copyright Organization and each collecting society shall be entitled to receive a copy thereof. There cannot be carried out a new investigation for the same statutory declaration at the request of other collecting societies.

(9) All enterprises that import or produce or market technical means and physical carriers that are subject to the fees of this article shall have the same rights the ones towards the others as the collecting societies have and as such rights are referred to in the previous paragraphs. In case of investigation by a certified accountant, the expenses thereof shall be incurred by the enterprise that requested such investigation.

(10) In the case that the importer is required to pay an equitable remuneration whether it concerns an import or inter-community acquisition of the sound or image or sound and image recordings or other technical means referred to in paragraph (3) of article 18 of Law 2121/1993, the remuneration is calculated on the value stated in the invoice of the foreign company, and the invoice note provided for by this article is made on the basis of the disposal invoice of the said recordings and technical means and simply states that the disposal price includes the fee calculated on the said value under paragraph (3) of article 18 of Law 2121/1993. The remuneration is payable three months after the import.

(11) When the same category or subcategory of rightholders includes more than one collecting society and they have not reached an agreement on the distribution of the percentage of equitable remuneration between them by 1st April of each year, the distribution of the percentages of equitable remuneration to the collecting society of each category or subcategory of rightholders, the method of collection and payment, and all other relevant details shall be determined by resolution of the Hellenic Copyright Organization (OPI). The resolution of OPI shall be shaped according to the opinions of the concerned collecting societies, good faith, fair practice and practices followed at international and community level. The collecting societies that do not agree with the resolution of OPI may apply to the court of first instance under the injunction procedure to determine other distribution; however, debtors shall be obliged to pay the equitable remuneration to collecting societies according to the resolution of OPI. Such payment shall entail full settlement and discharge thereof.

## **Article 19**

### **Quotation of Extracts**

Quotation of short extracts of a lawfully published work by an author for the purpose of providing support for a case advanced by the person making the quotation or a critique of the position of the author shall be permissible without the consent of the author and without payment, provided that the quotation is compatible with fair practice and that the extent of the extracts does not exceed that justified by the purpose. The quotation of the extract must be accompanied by an indication of the source of the extract and of the names of the author and of the publisher, provided that the said names appear on the source.

## **Article 20**

### **School Textbooks and Anthologies**

(1) The reproduction of lawfully published literary works of one or more writers in educational textbooks approved for use in primary and secondary education by the Ministry of National Education and Religious Affairs or another competent ministry, according to the official detailed syllabus, shall be permissible without the consent of the authors and without payment. The reproduction shall encompass only a small part of the total output of each of the writers. This provision shall apply only to printed reproduction.

(2) After the death of the author it shall be permissible to reproduce his works in a lawfully published anthology of literary works of more than one writer, without the consent of the rightholders and without payment. The reproduction shall encompass only a small part of the total output of each of the writers.

(3) The reproduction, as specified in paragraphs (1) and (2), hereinabove, must not conflict with the normal exploitation of the work from which the texts are taken and must be accompanied by an indication of the source and of the names of the author and the publisher, provided that the said names appear on the source.

## **Article 21**

### **Reproduction for Teaching Purposes**

It shall be permissible, without the consent of the author and without payment, to reproduce articles lawfully published in a newspaper or periodical, short extracts of a work or parts of a short work or a visual art work lawfully published exclusively for teaching or examination purposes at an educational establishment, in such measure to the extent justified by the intended purpose, provided that the reproduction is effected in accordance with fair practice and does not conflict with the normal exploitation. The reproduction must be accompanied by an indication of the source and of the names of the author and the publisher, provided that the said names appear on the source.

## **Article 22**

### **Reproduction by Libraries and Archives**

It shall be permissible, without the consent of the author and without payment, for non profit-making libraries or archives to reproduce one additional copy from a copy of the work already contained in their permanent collection, for the purpose of retaining that additional copy or of transferring it to another non profit-making library or archive. The reproduction shall be permissible only if an additional copy cannot be obtained in the market promptly, and on reasonable terms.

## **Article 23**

### **Reproduction of Cinematographic Works**

In cases where the holder of the economic right abusively withholds consent for the reproduction of a cinematographic work and where the work is of special artistic value, for the purpose of preserving it in the National Film Archive, the reproduction shall be permissible without his consent and without payment, subject to a decision by the Minister of Culture, upon prior positive opinion by the Film Advisory Board.

## **Article 24**

### **Reproduction for Judicial or Administrative Purposes**

To the extent justified by the intended purpose, the reproduction of a work for use in judicial or administrative procedures shall be permitted without the consent of the author and without payment.

## **Article 25**

### **Reproduction for Information Purposes**

(1) To the extent justified by the intended purpose, the following acts of reproduction shall be permissible without the consent of the author and without payment:

- a) For the purpose of reporting current events, the reproduction and communication to the public by the mass media of works seen or heard in the course of the event
- b) For the purpose of giving information on current events, the reproduction and communication to the public by the mass media of political speeches, addresses, sermons, speeches before the court or other works of similar nature, as well as of summaries or extracts of lectures, provided the said works are delivered in public

(2) Wherever possible, the reproduction and communication to the public shall be accompanied by an indication of the source and of the name of the author.

## **Article 26**

### **Use of Images of Works Located in Public Places**

The occasional reproduction and communication by the mass media of images of architectural works, visual art works, photographs or works of applied art, which are located permanently in public places, shall be permissible, without the consent of the author and without payment.

## **Article 27**

### **Public Performance or Presentation on Special Occasions**

The public performance or presentation of a work shall be permissible, without the consent of the author and without payment on the following occasions:

- a) at official ceremonies, to the extent justified by the nature of the ceremonies
- b) within the framework of staff and pupil or student activities at educational establishments, provided that the audience is composed exclusively of the aforementioned persons, the parents of the pupils or students, persons responsible for the care of the pupils or students, or persons directly involved in the activities of the establishment.

## **Article 28**

### **Exhibition and Reproduction of Visual Art Works**

- (1) It shall be permitted for museums which own the physical carriers into which works of visual art have been incorporated, without the consent of the author and without payment, to exhibit those works to the public on the museum premises, or during exhibitions organized in museums.
- (2) The presentation of a visual art work to the public, and its reproduction in visual arts catalogues to the extent necessary to promote its sale, shall be permissible, without the consent of the author and without payment.
- (3) In the cases dealt with in paragraphs (1) and (2), hereinabove, reproduction shall be permissible, provided that such reproduction does not conflict with the normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.

## **Article 28A**

### **Reproduction for the Benefit of Blind and Deaf-mute**

The reproduction of the work shall be permitted for the benefit of blind and deaf-mute persons, for uses which are directly related to the disability and are of a non-commercial nature, to the extent required by the specific disability. The conditions of application of this provision as well as the application of this provision to other categories of people with a disability may be determined by resolution of the Minister of Culture (article 5, paragraph 3 (b) of Directive 2001/29).

## **Article 28B**

### **Exception to the Reproduction Right**

Temporary acts of reproduction, which are transient or incidental, which are an integral and essential part of a technological process and whose sole purpose is to enable: a) a transmission in a network between third parties by an intermediary, or b) a lawful use of a work or other protected subject-matter, and which have no independent economic significance, shall be exempted from the reproduction right (article 5, paragraph 1 of Directive 2001/29).

## **Article 28C**

### **Clause of General Application concerning the Limitations**

The limitations provided for in Section IV of Law 2121/1993, as exists, shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other protected subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder (article 5, paragraph 5 of Directive 2001/29).

## SECTION V

### DURATION OF PROTECTION

#### Article 29

##### Duration in General

(1) Copyright shall last for the whole of the author's life and for seventy (70) years after his death, calculated from 1<sup>st</sup> January of the year after the author's death.

(2) After the expiry of copyright protection, the State, represented by the Minister of Culture, may exercise the rights relating to the acknowledgment of the author's paternity and the rights relating to the protection of the integrity of the work deriving from the moral rights pursuant to Article 4(1)(b) and (1)(c) of this Law.

#### Article 30

##### Works of Joint Authorship

Copyright in works of joint authorship shall last for the lifetime of the last surviving author and seventy (70) years after his death, computed from 1<sup>st</sup> January of the year after the death of the last surviving author.

#### Article 31

##### Special Commencement of the Duration

(1) In the case of anonymous or pseudonymous works, the term of copyright shall last for seventy (70) years computed from 1<sup>st</sup> January of the year after that in which the work is lawfully made available to the public. However if, during the said period, the author discloses his identity or when the pseudonym adopted by the author leaves no doubt as to his identity, then the general rules shall apply.

(2) Where a work is published in volumes, parts, instalments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for each such item separately.

(3) The term of protection of audiovisual works shall expire seventy years after the

death of the last of the following persons to survive: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the audiovisual work.

## SECTION VI

### RULES RELATING TO EXPLOITATION CONTRACTS AND LICENSES

#### Article 32

##### Percentage Fee

(1) The fee payable to the author by the other contracting party to legal agreements relating to the transfer of all or part of the economic right, the granting of the exploitation or for the exploitation license shall be obligatorily determined as a percentage, agreed freely between the parties. The computation of the percentage shall be based on gross revenues without exception or the gross expenditure or on the combined gross revenues and expenditure realized from the activity of the other contracting party in the course of the exploitation of the work. By way of exception, in the following circumstances, the fee may be agreed as a lump sum:

- a) when it is practically impossible to establish the basis for the calculation of a percentage fee or when there are no means of monitoring the implementation of a percentage arrangement
- b) when the expenditure required for the calculation and the monitoring is likely to be out of reasonable proportion to the fee to be collected
- c) when the nature or the conditions of the exploitation make the implementation of a percentage impossible, notably when the author's contribution is not an essential element in the intellectual creation as a whole, or when the use of the work is secondary in relation to the object of the exploitation

(2) The obligatory percentage arrangement of the fee prescribed in paragraph (1), hereinabove, shall be implemented in all circumstances provided that this Law does



not stipulate otherwise, and shall not concern works created by employees in the execution of the employment contract, computer programs or advertisement in any form.

## Article 33

### Rules Relating to Contracts for Printed Editions and Translators' Rights

(1) The fee payable by the publisher of a printed edition to the author for the reproduction and distribution of a work or of copies of a work shall be agreed as a particular percentage of the retail selling price of all of the copies sold. When the contract for a printed edition refers to a literary work, such as a short story, a short novel, a novel, a poem, an essay, a critical essay, a theatrical work, a travel book or a biography, which is being published in book form in its original language, excluding pocketbook editions, the fee payable to the author by the publisher after the sale of 1,000 copies cannot be less than 10 percent of the retail selling price of all the copies sold.

(2) By way of exception to the provision in paragraph (1), hereinabove, the fee payable to the author may be agreed as a lump sum when the work is any of the following:

- a) collective works
- b) encyclopaedias, dictionaries or anthologies of works of others
- c) school textbooks and companions
- d) albums, calendars, agendas, instructional books, printed games and educational items such as maps or atlases
- e) prefaces, comments, introductions, presentations
- f) illustrations or photographic material in printed editions
- g) non-literary picture books for children
- h) luxury editions of a limited number of copies
- i) magazines or newspapers

(3) Where a work has more than one author, and in the absence of an agreement to the contrary, the percentage fee shall be distributed proportionally among the various authors according to the extent of their contributions. Where one or more

of the authors are unprotected by the copyright provisions of the laws, those of the authors who do enjoy copyright protection shall be paid the percentage fee agreed or that percentage to which they would have been entitled under paragraph (1) of this article, if all of them had been protected.

(4) Where copies of a work are the object of a rental or lending arrangement involving third parties, the fee payable for the granting of the necessary license shall be shared equally between the author and the publisher.

(5) In a case where the author's fee is fixed as a percentage of retail sales, and unless some other method of monitoring is agreed, each of the copies to be sold shall be signed by the author. An alternative method of monitoring the number of copies sold shall be fixed in a presidential decree, to be promulgated within six months of the entry into force of this Law, on the recommendation of the Minister of Culture after consultation with the interested professional branches.

(6) The fee payable by the publisher of a printed edition to the translator of a work with respect to the translation, reproduction and distribution of the work shall be agreed as a percentage of the retail selling price of all the copies sold. The provisions of paragraphs (2), (4) and (5) of this Article shall apply mutatis mutandis.

(7) The translator's name must be clearly indicated on the main title page of the work. Upon agreement with the publisher, the translator's name may also be indicated on the outer cover of the work.

## Article 34

### Rules Relating to Audiovisual Production Contracts

(1) A contract dealing with the creation of an audiovisual work between a producer and an author shall specify the economic rights which are to be transferred to the producer. If the aforementioned provision is not met, the contract shall be deemed to transfer to the producer all the economic rights which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. When the master from which copies for exploitation are to be made, is approved by the author, the audiovisual work shall be deemed to be accomplished. No alteration, abridgment or other modification shall be made to the definitive form of the audiovisual work, as the latter has been approved by the author, without his prior consent. Authors of individual contributions to an audiovisual work may exercise

their moral right only in relation to the definitive form of the work, as approved by the author.

(2) The contract between the producer of an audiovisual work and the creators of individual contributions incorporated in the work shall specify the economic rights which are transferred to the producer. If the aforementioned provision is not met, the contract between the producer and the authors of individual contributions, other than the composers of music and writers of lyrics, shall be deemed to transfer to the producer those powers under the economic right which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. Where the contributions to an audiovisual work are capable of separate use, the economic right in relation to other uses shall remain with their authors.

As authors of audiovisual contributions shall be considered the author of the screenplay, the author of the dialogue, the composer of music, the director of photography, the stage designer, the costume designer, the sound engineer and the final prosecutor (editor).

(3) The author of an audiovisual work shall retain the right to a separate fee for each form of exploitation of the work. The aforementioned fee shall be agreed as a percentage, specified in the relevant contract. The calculation of the percentage shall be based on gross revenues, without exception, or the gross expenditure or on the combined gross revenues and expenditure, realized in the course of the exploitation of the work. The producer of the audiovisual work is obliged once a year to give the author of the work all information concerning the exploitation of the work, in writing, showing him also all relevant documents. Short advertising films shall be exempt from the provisions of this paragraph.

(4) When visual or audiovisual recordings carrying a fixation of an audiovisual work are the object of a rental arrangement, the author shall in all cases retain the right to an equitable remuneration. This provision shall apply also in the case of a rental arrangement relating to sound recordings.

## Article 35

### Rules Relating to Broadcasting by Radio and Television

(1) In the absence of an agreement to the contrary, the rebroadcasting of a work by radio or television shall require no consent from the author additional to that granted for the first broadcasting. However, when a broadcasting organization

rebroadcasts a work it shall pay an additional fee to the author. For the first rebroadcast, the fee payable shall be at least 50 percent of the initial fee agreed for the first broadcast, and for each subsequent broadcast the additional fee shall be 20 percent of the initial fee. This provision shall not apply to the arrangements between collecting societies and users referred to in Article 56 of this Law.

(2) In the absence of an agreement to the contrary, the contract between an author and a broadcasting organization shall not empower the broadcasting organization to permit third parties to broadcast or rebroadcast to the public the work by wireless waves or by wire or by any other means, in parallel to the surface of the earth or by satellite.

(3) The act of communication of a work to the public by satellite occurs solely in the European Union Member State where, under the control and responsibility of the broadcasting organization, the programme-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth. If the programme-carrying signals are encrypted, then there is communication to the public by satellite on condition that the means for decrypting the broadcast are provided to the public by the broadcasting organization or with its consent. Where an act of communication to the public by satellite occurs in a non-Community State which does not provide the level of protection provided for under this Law, as amended hereby,

i) if the programme-carrying signals are transmitted to the satellite from an uplink situation situated in a Member State, that act of communication to the public by satellite shall be deemed to have occurred in that Member State and the rights shall be exercisable against the person operating the uplink station.

ii) if there is no use of an uplink station situated in a Member State but a broadcasting organization established in a Member State has commissioned the act of communication to the public by satellite that act shall be deemed to have occurred in the Member State in which the broadcasting organization has its principal establishment in the Community and the rights shall be exercisable against the broadcasting organization.

'Communication to the public by satellite' shall mean the act of introducing, under the control and responsibility of the broadcasting organization, the programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth. The authorisation to communicate a work to the public by satellite shall be acquired only by agreement.

(4) Cable retransmission of programmes from other European Union Member States to Greece shall take place, as far as copyright is concerned in accordance with the provisions hereof and on the basis of individual or collective contractual agreements between copyright owners, holders of related rights and cable operators. Where no agreement is concluded regarding authorisation of the cable retransmission of a broadcast, either party may call upon the assistance of one or more mediators selected from the list of mediators drafted by the Hellenic Copyright Organization every two years. The Hellenic Copyright Organization may consult the collecting societies and cable operators for the drafting of the said list. Mediators may submit proposals to the parties. It shall be assumed that all parties accept a proposal if none of them expresses its opposition within a period of three (3) months from the notification of the proposal. 'Cable retransmission' shall mean the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission from another Member State, by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public.

## **Article 36**

### **Theatrical Performance Fee**

(1) The rights of playwrights shall be determined as a percentage of gross receipts after deduction of public entertainment tax.

(2) The fee shall be based on the gross receipts for the whole of the program of a performance of original works or translations or adaptations of ancient or more recent classical works, the minimum fee being 22 percent for performances in state theatre and 10 percent for performances in private theatres. For translations of modern works of the contemporary international repertory, the minimum fee shall be 5 percent. Where a program contains works by more than one playwright, the fee shall be shared among them in proportion to the duration of each playwright's work.

## **Article 37**

### **Musical Accompaniment of Films**

The minimum fee payable to the composers of musical and song accompaniment of films, shown to the public in cinema halls or other spaces, shall be 1 percent of gross receipts after deduction of public entertainment tax.

## **Article 38**

### **Photographers' Rights**

(1) In the absence of an agreement to the contrary, a transfer of the economic right or exploitation contract or license dealing with the publication of a photograph in a newspaper, periodical or other mass media shall refer only to the publication of the photograph in the particular newspaper, periodical or mass media specified in the transfer or exploitation contract or license and to the archiving of the photograph. Every subsequent act of publication shall be subject to payment of a fee equal to half the current fee. The publication of a transferred photograph from the archive of a newspaper, periodical or other mass media shall be permitted only when accompanied by a reference to the title of the newspaper or of the periodical or to the name of the mass media, into whose archive the photograph was initially and lawfully placed.

(2) Where the publication of a photograph is facilitated by the surrender of the photographic negative, use shall be made of the negative, in the absence of an agreement to the contrary, only for the first publication of the photograph, after which the negative shall be returned to the photographer.

(3) The photographer shall retain the right to access and request the return to him of his photographs, which have been the object of an exploitation contract or license arrangement with a particular newspaper, periodical or other mass media and which have remained unpublished three months after the date of the exploitation contract or license.

(4) Each act of publication of a photograph shall be accompanied by a mentioning of the photographer's name. The same shall apply when the archive of a newspaper or of a periodical or of another mass media is transferred.

(5) The owner of a newspaper or of a periodical shall not be entitled to publish a photograph created by a photographer, employed by him, in a book or album

publication without the employee's consent. The same shall apply to the lending of a photograph.

### **Article 39**

#### **Nullity of Contrary Agreement**

Except where provided for elsewhere in the Law, any agreement which lays down conditions contrary to the provisions of the articles of this Section, or which imposes a fee level lower than that prescribed in this Section, shall be null and void in respect of those of its clauses which are deleterious to the authors.

## **SECTION VII**

### **SPECIAL PROVISIONS CONCERNING COMPUTER PROGRAMS AND THE SUI GENERIS RIGHT OF THE MAKER OF A DATABASE**

### **Article 40**

#### **Works Created by Employees**

The economic right in a computer program created by an employee in the execution of the employment contract or following instructions given by his employer shall be transferred ipso jure to the employer, unless otherwise provided by contract.

### **Article 41**

#### **Exhaustion of a Right**

The first sale in the European Community of a copy of a computer program by the author or with his consent shall exhaust the distribution right within the Community of that copy, with the exception of the right to control further rental of the

computer program or of a copy thereof.

### **Article 42**

#### **Restrictions**

(1) In the absence of an agreement to the contrary, the reproduction, translation, adaptation, arrangement or any other alteration of a computer program shall not require authorization by the author or necessitate payment of a fee, where the said acts are necessary for the use of the computer program by the lawful acquirer in accordance with its intended purpose, including correction of errors.

(2) Reproduction which is necessary for the purposes of loading, displaying, running, or storage of the computer program shall not fall under the restriction of the previous paragraph and shall be subject to authorization by the author.

(3) The making of a backup copy by a person having a right to use the computer program may not be prevented by contract insofar as it is necessary for the use of the computer program, and shall not necessitate an authorization by the author or the payment of a fee.

(4) The person having a right to use a copy of a computer program shall be entitled, without the authorization of the author and without payment of a fee, to observe, study or test the functioning of the computer program in order to determine the ideas and principles which underlie any element of the computer program, if he does so while performing any of the acts, which he is entitled to do. Any agreement to the contrary shall be prohibited.

(5) Reproduction of a computer program for private use other than in the circumstances specified in paragraphs (3) and (4), hereinabove, shall be prohibited.

### **Article 43**

#### **Decompilation**

(1) The person having the right to use a copy of a computer program shall be entitled to carry out the acts referred to in Article 42(1) and (2) without the authorization of the author and without the payment of a fee when such acts are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other computer programs, provided that the information necessary to achieve interoperability has not

previously been easily and readily available to the person having the right to use the computer program, and provided that these acts are confined to the parts of the original computer program which are necessary to achieve the said interoperability.

(2) The provisions of paragraph (1) hereinabove shall not permit the information obtained through their application:

a) to be used for goals other than to achieve the interoperability of the independently created computer program

b) to be given to others, except when necessary for the interoperability of the independently created computer program or

c) to be used for the development, production or marketing of a computer program substantially similar in its expression to the initial computer program, or for any other act which infringes copyright

(3) The provisions of this Article may not be interpreted in such a way as to allow its application to be used in a manner which would conflict with a normal exploitation of the computer program or would unreasonably prejudice the author's legitimate interests.

## Article 44

Article 44 was repealed by article 8 paragraph (8) of Law 2557/1997.

## Article 45

### Validity of Other Provisions and Agreement

(1) The provisions of this Section shall be without prejudice to other legal provisions, relating notably to patent rights, trade marks, unfair competition, trade secrets, protection of semi-conductor products or the law of contract.

(2) Any agreement contrary to the provisions of Article 42(3) and (4) and Article 43 of this Law shall be null and void.

## Article 45A

### Sui Generis Right of the Maker of a Database

(1) The maker of a database shall have the right, which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents, to prevent extraction and/or re-utilization of the whole or of a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that database. 'Maker of a database' is the individual or legal entity who takes the initiative and bears the risk of investment. The database contractor shall not be considered as maker (article 7, paragraph 1 of Directive 96/9).

(2) For the purposes of this article: a) 'extraction' shall mean the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form, and b) 're-utilization' shall mean any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission. The first sale of a copy of a database within the Community by the rightholder or with his consent shall exhaust the right to control resale of that copy within the Community.

Public lending is not an act of extraction or re-utilization (article 7, paragraph 2 of Directive 96/9).

(3) The right referred to in paragraph (1) hereinabove shall apply regardless of whether the said database or the content thereof are protected by the provisions on copyright or other provisions. Protection on the basis of the right referred to in paragraph (1) hereinabove shall not prejudice potential rights on their content. The sui generis right of the maker of a database may be transferred with or without consideration and its exploitation may be assigned by license or contract (article 7, paragraphs 3 and 4 of Directive 96/9).

(4) The repeated and systematic extraction and/or re-utilization of insubstantial parts of the contents of the database shall not be permitted, if they involve actions which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database (article 7, paragraph 5 of Directive 96/9).

(5) The maker of a database which is made available to the public in whatever manner may not prevent a lawful user of the database from extracting and/or re-

utilizing insubstantial parts of its contents, evaluated qualitatively and/or quantitatively, for any purposes whatsoever. Where the lawful user is authorized to extract and/or re-utilize only part of the database, this paragraph shall apply only to that part. A lawful user of a database which is made available to the public in whatever manner may not:

- a) perform acts which conflict with the normal exploitation of such database or unreasonably prejudice the legitimate interests of the maker of the database,
- b) cause prejudice to the holder of a copyright or related right in respect of works or performances contained in the said database.

Any agreement contrary to the arrangements provided for in this paragraph shall be null and void (articles 8 and 15 of Directive 96/9).

(6) The lawful user of a database which is made available to the public in whatever manner may, without the authorization of the maker of the database, extract and/or re-utilize a substantial part of its contents: a) in the case of extraction for educational or research purposes, as long as the source is indicated, and to the extent justified by the non commercial purpose to be achieved, b) in the case of extraction and/or re-utilization for the purposes of public security or for the purposes of an administrative or judicial procedure. The sui generis right shall apply to databases whose makers or rightholders are nationals of a Member State or have their habitual residence in the territory of the Community. It shall also apply to companies and firms established in accordance with the legislation of a Member State, whose registered offices, central administration or main establishment are located within the Community. Where such a company or firm has only its registered office in the territory of the Community, its operations must be genuinely linked on an ongoing basis with the economy of a Member State (articles 9 and 11 of Directive 96/9).

(7) The right provided for in this article shall run from the date of completion of the making of the database. It shall expire fifteen (15) years from the 1<sup>st</sup> of January of the year following the date of completion. In the case of a database which is made available to the public in any manner whatsoever before expiry of the period provided for hereinabove, the term of protection by that right shall expire fifteen years from the 1<sup>st</sup> of January of the year following the date when the database was first made available to the public. Any substantial change, evaluated qualitatively and/or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive additions, deletions or alterations, which would result in the database being considered to be a substantial

new investment, evaluated qualitatively and/or quantitatively, shall qualify the database resulting from that investment for its own term of protection (article 10 of Directive 96/9).

## **SECTION VIII**

### **RELATED RIGHTS**

#### **Article 46**

##### **License by Performers**

(1) The term 'performers' shall designate persons who in any way whatsoever act or perform works, such as actors, musicians, singers, chorus singers, dancers, puppeteers, shadow theatre artists, variety performers or circus artists.

(2) The performers or performing artists shall have the right to authorize or prohibit:

- a) the fixation of their performance
- b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, concerning the fixation of their performance
- c) the distribution to the public of the fixation of their performance, by sale or other means. The distribution right shall not be exhausted within the Community in respect of the fixation of the performance except where the first sale in the Community is made by the rightholder or with his consent
- d) the rental and public lending of the fixation of their performance. Such rights shall not be exhausted by any sale or other act of distribution of the said recordings
- e) the radio and television broadcasting of the illegal fixation by any means, such as wireless waves, satellites, or cable as well as the communication to the public of a recording with an illegal fixation of their live performances
- f) the radio and television broadcasting by any means, such as wireless waves, satellites, or cable, of their live performance, except where the said broadcasting is rebroadcasting of a legitimate broadcasting
- g) the communication to the public of their live performances made by any means other than radio or television transmission

h) the making available to the public of fixations of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them. This right shall not be exhausted by any act of making available to the public, in the sense of this provision.

(3) Subject to contractual clauses to the contrary, explicitly specifying which acts are authorized, the acts listed in paragraph (2), hereinabove, shall be presumed to have been authorized when a performer has entered into an employment contract, having as its object the operation of those particular acts, with a party who is doing such acts. The performer shall at all times retain the right to remuneration for each of the acts listed in paragraph (2), hereinabove, regardless of the form of exploitation of his performance. In particular, the performer shall retain an unwaivable right to equitable remuneration for rental, if he has authorized a producer of sound or visual, or audiovisual recordings, to rent out recordings carrying fixations of his performance (articles 2, 3, paragraphs 2 and 3, 4 of Directive 2001/29).

(4) Where a performance is made by an ensemble, the performers making up the ensemble shall elect and appoint in writing one representative to exercise the rights listed in paragraph (2) hereinabove. This representation shall not encompass orchestral conductors, choir conductors, soloists, main role actors and principal directors. Where no representative has been appointed according to the first sentence of this paragraph, the rights listed in paragraph (2) of this article shall be exercised by the director of the ensemble.

(5) It shall be prohibited to transfer during the lifetime of the performer and to waive the rights referred to in paragraph (2) of this article. The administration and protection of the aforementioned rights may be assigned to a collecting society pursuant to Articles 54 to 58 of this Law.

## Article 47

### License by Producers of Sound and Visual Recordings

(1) The phonogram producers (producers of sound recordings) shall have the right to authorize or prohibit

a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their phonograms

b) the distribution to the public of the above recordings by sale or other means. The distribution right shall not be exhausted within the Community in respect of the said

recordings except where the first sale in the Community is made by the rightholder or with his consent

c) the rental and public lending of the said recordings. Such rights shall not be exhausted by any sale or other act of distribution of the said recordings

d) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning their phonograms. This right shall not be exhausted by any act of making available to the public in the sense of this provision

e) the import of the said recordings produced abroad without their consent or the import from a country outside the European Community when the right over such import in Greece had been retained by the producer through contract (articles 2, 3 paragraphs 2 and 3, 4 of Directive 2001/29).

(2) The producers of audiovisual works (producers of visual or sound and visual recordings) shall have the right to authorize or prohibit:

a) the direct or indirect, temporary or permanent reproduction by any means and form, in whole or in part, of the original and copies of their films

b) the distribution to the public of the above recordings, by sale or other means. The distribution right shall not be exhausted within the Community in respect of the said recordings except where the first sale in the Community is made by the rightholder or with his consent

c) the rental and public lending of the said recordings. Such rights shall not be exhausted by any sale or other act of distribution of the said recordings

d) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning the original and the copies of their films. This right shall not be exhausted by any act of making available to the public in the sense of this provision

e) the import of the said recordings produced abroad without their consent or the import from a country outside the European Community when the right over such import in Greece had been retained by the producer through contract f) the broadcasting of the said recordings by any means including by satellite or cable, as well as the communication to the public (articles 2, 3 paragraph 2 and 3, 4 of Directive 2001/29).

(3) The term 'producer of sound recordings' shall designate any natural or legal person

who initiates and bears the responsibility for the realization of a first fixation of a series of sounds only. The term 'producer of visual or sound and visual recordings' shall designate any natural or legal person who initiates and bears responsibility for the realization of a first fixation of a series of images with or without sound.

## Article 48

### License from Radio or Television Organizations

(1) Radio and television organizations shall have the right to permit or prohibit:

- a) the transmission of their broadcasts by any means such as wireless waves, satellites or cable
- b) the communication of their broadcasts to the public in places accessible to the public against payment of an entrance fee
- c) the fixation of their broadcasts on sound or sound and visual recordings, regardless of whether the broadcasts are transmitted by wire or by air, including by cable or satellite broadcasting
- d) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part of the fixation of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including cable or satellite
- e) the distribution to the public of the recordings containing the fixation of their broadcasts, including the copies thereof, by sale or other means. The distribution right shall not be exhausted within the Community in respect of devices containing the recording of their broadcasts except where the first sale in the Community is made by the rightholder or with his consent
- f) the rental or public lending concerning the recordings containing the fixation of their broadcasts. Such rights shall not be exhausted by any sale or other act of distribution of the said recording
- g) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning the fixation of their broadcasts. This right shall not be exhausted by any act of making available to the public, in the sense of this provision (articles 2, 3 paragraphs 2 and 3, 4 of Directive 2001/29).

(2) Radio or television organizations shall not have the right provided for in paragraph

(1) (c), hereinabove, when they merely retransmit by cable the broadcasts of a radio or television organization.

## Article 49

### Right to Equitable Remuneration

(1) When sound recordings are used for a radio or television broadcast by any means, such as wireless waves, satellite or cable, or for communication to the public, the user shall pay a single and equitable remuneration to the performers whose performances are carried on the recordings and to the producers of the recordings. This remuneration shall be payable only to collecting societies. The said collecting societies shall be responsible for negotiating and agreeing the remuneration levels, raising the claims for the payment and collecting the remuneration from the users. Where there is a dispute between the users and the collecting societies, the level of the equitable remuneration and the terms of payment shall be determined by the court of first instance pursuant to the injunction procedure. The final judgment concerning the remuneration shall be rendered by the competent court.

(2) Without prejudice to the obligatory assignment of the administration of rights and the collection of the remuneration by collecting societies operating according to Articles 54 to 58 of this Law, the right of performers to the equitable remuneration prescribed under paragraph (1) of this article, shall not be assignable.

(3) The collected remuneration shall be distributed in order of 50 percent to the performers and 50 percent to the producers of the recordings. The distribution of the collected remuneration among the various performers and among the various producers shall be effected pursuant to agreements among them that are contained in the rules of each collecting society.

(4) Performers shall have the right to an equitable remuneration in respect of any radio or television rebroadcast of their performance transmitted by radio or television. Without prejudice to the possibility of assigning the administration of rights and the collection of remuneration to collecting societies according to the provisions of Articles 54 to 58 of this Law, an equitable remuneration prescribed in this paragraph shall not be assignable.

(5) When visual or audiovisual recordings are used for radio or television broadcast by any means, such as wireless waves, satellite or cable or communication to the public, the user shall pay equitable remuneration to the performers whose performances are



carried on the recordings. The provisions of paragraph (1) (b.) (c), (d) and (e), as well as paragraphs (2) and (4) of this article shall be applicable mutatis mutandis.

## **Article 50**

### **Moral right**

(1) During their lifetime, performers shall have the right to full acknowledgment and credit of their status as such in relation to their performances and to the right to prohibit any form of alteration of their performances.

(2) After the death of a performer that person's moral right shall pass to his heirs.

(3) The provisions of Article 12(2) and Article 16 of this Law shall be applicable mutatis mutandis to the moral right of performers.

## **Article 51**

### **Rights of Publishers**

Publishers of printed matter shall have the right to authorize or prohibit the reproduction by reprographic, electronic or any other means of the typesetting and pagination format of the works published by them, if the said reproduction is made for exploitation purposes.

## **Article 51A**

### **Protection of previously unpublished works**

Any person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work, shall benefit from a protection equivalent to the economic rights of the author. The term of the protection of such rights shall be twenty five (25) years from the time when the work was first lawfully published or lawfully communicated to the public and is calculated from 1<sup>st</sup> January of the year after the first lawful publication or communication to the public.

## **Article 52**

### **Form of the License, Limitations and Duration of the Rights as well as the Regulation of Other Issues.**

The rights prescribed in Articles 46 to 51 of this Law shall be subject to the following rules:

a) agreements concerning those rights shall be valid legal agreements only when concluded in writing

b) the limitations applicable to the economic right attaching to copyright shall apply mutatis mutandis

c) the protection of performers provided in Articles 46 and 49 of this Law shall expire fifty (50) years after the date of the performance, but cannot be less than the life of the performer. However, if a fixation of the performance is lawfully published or lawfully communicated to the public within this period, the rights shall expire fifty (50) years from the date of the first such publication or the first such communication to the public, whichever is the earlier

d) The rights of phonogram producers (producers of sound recordings) shall expire 50 years after the fixation is made. However, if the phonogram has been lawfully published within this period, the said rights shall expire fifty (50) years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within this period, the said rights shall expire fifty (50) years from the date of the first lawful communication to the public. However, where through the expiry of the term of protection granted pursuant to this paragraph in its version before the amendment by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, the rights of producers of phonograms are no longer protected on 22 December 2001, this paragraph shall not have the effect of protecting those rights anew (article 11, paragraph 2 of Directive 2001/29).

The rights of producers of audiovisual works (producers of sound and visual recordings) shall expire fifty (50) years after the fixation is made. However, if lawful publication or lawful communication of the device is made to the public within such period, such rights shall expire fifty (50) years from the date of first publication or first communication to the public, whichever comes first

e) The rights of broadcasting organizations provided for in article 48 of this Law shall expire fifty (50) years after the date of the first transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite or any other means of transmission

f) The rights of editors provided for in article 51 of this Law shall expire fifty (50) years after the last edition of the work

g) The term fixed in cases c, d, e and f of this article is calculated from 1<sup>st</sup> January of the year following the event which gives rise to them.

h) For the purposes of communication to the public by satellite and cable retransmission, the rights of performers, producers of sound or visual or sound and visual recordings as well as broadcasting organizations shall be protected in accordance with the provisions of the eighth section of this Law, and the provisions of paragraphs (3) and (4) of article 35 of this Law shall apply accordingly.

## Article 53

### Protection of Copyright

The protection provided under Articles 46 to 52 of this Law shall leave intact and shall in no way affect the protection of copyright. In no circumstance shall any of the provisions of the aforementioned Articles be interpreted in such a manner as to lessen that protection. Where performers, producers of sound or visual or audiovisual recordings, radio or television organizations and publishers acquire the copyright in a work in addition to related rights, such rights shall apply in parallel with each other and shall confer the rights deriving there from.

## SECTION IX

### ADMINISTRATION BY COLLECTING SOCIETIES

#### Article 54

##### Assignment of Administration

(1) Authors may assign the administration and/or protection of their rights to a collecting society established exclusively to engage in the functions of administering and protecting all or part of the economic rights. Likewise, collecting societies may perform those functions for a person to whom the author has granted a right as a gift, for a general proxy, for an heir or for a foundation set up by an author. A collecting society may have any form of company status. Where a collecting society is registered as an incorporated company all of its shares shall be nominal. All other matters pertaining to the company status of collecting societies shall be regulated pursuant to Article 24(2) to (4) of Law 1746/1988. The notification provided for under Article 24(4) of Law 1746/1988 shall be issued only by the Ministry of Culture. A collecting society may have the status of an urban cooperative pursuant to Law 1667/1986. Where a collecting society has the status of an urban cooperative the following provisions shall apply:

- a) wherever, in Law 1667/1986, competence is granted to the Ministry of Economy and Finance, that competence shall be transferred to the Ministry of Culture
- b) by way of derogation from the principle of locality, the cooperative may be established and function on a nationwide basis
- c) all members of the cooperative may be legal entities
- d) the Articles of Association of these cooperatives may provide for the following:
  - aa) terms, internal procedures and bodies that will decide on the entry, withdrawal or exclusion of a partner, which depart from the terms, procedures and bodies provided for by paragraphs (4), (5), (6), (7) and (8) of Article 2 of Law 1667/1986
  - bb) that, in the event of the withdrawal or exclusion of a partner or non acquisition of the capacity of a partner by the heirs, there is no claim by the partner or the heirs for the return of their cooperative shares or for payment of the value thereof, or that there is a claim for return of the par value of the shares only
  - cc) the possibility to acquire an unlimited number of elective shares by the partners

- dd) that cooperative shares cannot be transferred between living persons
- ee) categories of partners either without a voting right or with a number of votes per partner which is independent of the number of compulsory or elective shares of each partner
- ff) the restriction of the right of subparagraph (b) of paragraph (2), Article 4 of Law 1667/1986 for the protection of the legitimate interests of the collecting societies
- gg) that, apart from the sum of their shares, the new partners have no obligation of payment and contribution proportional to the net assets of the cooperative or that they have such obligation for a limited time after the establishment of the cooperative
- e) that these cooperatives are always of limited liability and the partners are not personally liable for the debts of the cooperative
- f) a presidential decree issued at the suggestion of the Minister of Culture may regulate the matters of Articles 5, 6, 7, and 8 of Law 1667/1986, as well as all matters of internal relations of these cooperatives, in accordance with the provisions applicable in the Member States of the European Union concerning the collecting societies operating in an identical or similar form.

(2) In cases of unaltered and unabridged secondary transmissions of radio and television programs by cable or other physical means, administration by collecting societies shall be obligatory for the rights of authors.

(3) The title (of a collecting society) may be established by a transfer of such economic rights for which protection is sought, or by grant of appropriate powers of attorney. The title shall be established in writing and shall be for a specified period which shall never be longer than three years. The agreement establishing the title shall specify precisely which of the author's works are included under the title as suitable for exploitation. In case of ambiguity, it shall be presumed that the agreement embraces all the author's works, including any works he may create during the term of agreement, which shall in no case be longer than three years.

(4) Before commencing operations, a collecting society which has undertaken or proposes to undertake the administration or protection of rights stemming from the economic right of authors shall lodge a statement to that effect with the Ministry of Culture together with a copy of its Rules providing at least the following information:

- a) the amount of the society's share capital
- b) its Articles of Association or corporate charter, if a company
- c) the name of the responsible spokesman of the society and the names of the persons responsible for its administration, all of whom shall be of proven professional repute and without convictions for felony or misdemeanour against ownership or property
- d) the number of authors who have assigned to the society the administration of rights stemming from their economic right
- e) the legal form through which the title of administration has been effected
- f) in each case, duration of the title
- g) the principles governing the distribution of remuneration to rightholders and the proposed dates and manner of distribution
- h) the level of management expenses as well as any element necessary to ensure the viability of the collecting society and the efficiency of its operations.

The Ministry of Culture shall check the statement and Rules lodged by the collecting society and, provided that the information therein contained demonstrates compliance with the requirements of this Law, grant approval for the collecting society's operations. Any subsequent alteration of the collecting society's Rules shall be submitted to the Ministry of Culture for approval. No alteration to a society's Rules shall be valid unless it is approved by the Ministry of Culture. In any other case, the rules as initially approved by the Ministry of Culture on the commencement of the collecting society's operations shall continue to apply in their entirety.

(5) The Ministry of Culture shall monitor the operations of collecting societies to ensure that they comply with the provisions of this Law and with their rules. Each collecting society shall, when requested, surrender its accounts to the competent department of the Ministry of Culture for inspection and submit any other information that is necessary for the effective monitoring of its operations. Except when a collecting society is a non profit organization, its accounts shall be subject to inspection by sworn auditors regardless of its company status.

(6) Where a collecting society is found to have perpetrated a serious violation of its rules or of this Law, or continues to perpetrate such a violation despite being

admonished by the Ministry of Culture to desist, the Minister of Culture may impose on the collecting society, without prejudice to the applicability of other penalties, an administrative fine of from 500,000 to 10 million drachmas. Matters pertaining to monitoring, the interviewing of alleged perpetrators of violations, the procedure for the imposition of fines and adjustments to the above financial amounts shall be determined by presidential decrees issued on the recommendation of the Minister of Culture.

(7) Wherever the term 'Rules' appears in this Law it shall have the meaning of the term as it is used in paragraph (4) of this Article.

(8) The condition of article 54 paragraph (4) (h) of this Law is not required when the collecting society meets the following three requirements:

- a) it pursues its objectives without profit for itself
- b) it is composed of, administered and controlled solely by the creators themselves and is enabled to elect or appoint to its board of directors or supervisors, if any, certain persons who, due to their position or speciality, may provide remarkable services to the said society, provided that the participation of the latter does not interfere with the administration and control of the society by its members' and
- c) the members of the said society would be forced to assign the management and protection of their rights to collecting societies that do not meet the above two requirements (a and b).

(9) In the event of serious violation or repeated violations of this law or Rules and, specifically, in the event of non fulfilment of the conditions of article 54 paragraph (4) hereof on the basis of which the operation of a collecting society was authorised, the Minister of Culture may, on motion made by the Hellenic Copyright Organisation, provisionally or finally revoke the authorisation of operation of the specific collecting society.

## Article 55

### The Competence of Collecting Societies

(1) Collecting societies shall have the competence to perform the following functions:

- a) concluding contracts with users specifying the terms of exploitation of works and the remuneration payable

b) securing for authors the percentage fee referred to in Article 32(1) of this Law;

c) collecting remuneration and distributing it among authors as necessary

d) collecting and allocating among authors the remuneration referred to in Article 18(3) of this Law

e) effecting, pursuant to paragraph 2 (2) of this article, all administrative, judicial and extrajudicial tasks necessary to secure lawful protection of the rights of authors and other rightholders, notably taking legal steps and court actions, lodging of complaints and serving writs, appearing as civil plaintiffs, seeking the prohibition of acts infringing rights assigned to them and requesting seizure of unlawful copies pursuant to Article 64 of this Law

f) obtaining from users all information needed for the computation, collection and allocation of remuneration

g) carrying out, in collaboration with public authorities or pursuant to the procedure referred to in Article 64 of this Law, all necessary checks at outlets for the sale, rental and lending of copies of works under their protection, and at public performances of works, in order to protect against infringements of the rights of authors. The establishment act of the collecting society can limit its competence to only part of the above-mentioned.

(2) A collecting society shall be presumed to have the competence to administer and/or protect the rights in all of the works or in respect of all of the authors concerning which or for whom a declaration of transfer to the society has been effected in writing, or for which it has been granted power of attorney. Regardless of whether its authorization rests on a transfer of rights or on power of attorney, a collecting society shall in all circumstances be entitled to initiate judicial or extrajudicial action in its own name and to exercise in full legitimacy all the rights transferred to it, or for which it holds power of attorney.

(3) When seeking the protection of the courts for works or authors under its protection a collecting society shall not be required to provide an exhaustive list of all of the works which have been the object of the unlicensed exploitation, and it may lodge only a sample list.

(4) If a rightholder disputes a collecting society's competence over a work which was included under the declaration referred to in paragraph 2 of this article and under the contract concluded with the user on the basis of that declaration, the collecting society shall defend the user who has obtained a licence from the collecting society in whatever manner and, in particular shall come to his assistance

in any relevant court action .If the collecting society is proven not to have competence over the work, it shall, in addition to any criminal liability, compensate the user who has obtained a licence and the relevant suit shall be tried according to the extraordinary procedures of labor disputes regulated in the Greek Code of Civil Procedure

## **Article 56**

### **Relations with Users**

(1) When granting users the facility to make use of works assigned to it, a collecting society shall demand from the users payment of the percentage fee specified in Article 32(1) of this Law. The exceptions provided for in Article 32(2) of this Law with respect to the percentage fee shall not apply in these circumstances.

(2) A collecting society may not refuse to conclude a contract with a user, as referred to in Article 55(1) a), without good and proper reason. If an aspiring user is of the opinion that the remuneration demanded by a collecting society is clearly in excess of that usually payable in similar circumstances, the aspiring user shall pay to the collecting society, in advance of any use, either the remuneration demanded or an amount determined, upon request, by a court of first instance as being equal to the remuneration usually payable in similar circumstances, pursuant to the provisional measures. The final judgment concerning the remuneration shall be rendered by the competent court.

(3) Organizations representing users may, together with collecting societies, decide by written agreement to appoint an arbiter, specifically by name or position, to determine the amount of remuneration to be paid by a user before disagreement arises. Before finally deciding on the remuneration due, the arbiter may order the user to lodge a down payment. An arbiter thus appointed shall have exclusive competence for the settling of disagreements. The decisions of an arbiter shall be equitable. The Minister of Culture may himself decide to appoint an arbiter. In such a case, recourse to that arbiter by the parties to a dispute shall be voluntary and by agreement. Collecting societies shall draw up lists of the remuneration payable by users (remuneration tariffs) and shall promulgate the said lists in not less than three daily journals, one of which shall be a financial journal. When drawing up and implementing their remuneration tariffs, collecting societies shall refrain from inconsistency and discrimination. The collecting societies and organizations representing users may conclude agreements regulating the remuneration payable

by the user in any category of beneficiaries, as well as any other matter concerning the relations of the two sides in the framework of application of this Law, as has been subsequently amended.

(4) In order to facilitate the actions referred to in circumstances a), b), c) and d) of Article 55(1), users shall without delay make available to collecting societies lists of the works of which they are producing, selling, renting or lending copies, together with the exact numbers of copies produced or distributed, and likewise lists of the works they are performing publicly, together with a statement of the frequency of such performances.

(5) Any dispute between the collecting societies and the users regarding the remuneration payable by the user to the collecting society may be referred to arbitration. The arbitrators shall be appointed from the list drafted every two years by the Hellenic Copyright Organization. It is compulsory to take into account the opinion of the collecting societies and the users when drafting the said list. For all other matters, articles 867 et seq. of the Code of Civil Procedure shall apply accordingly.

## **Article 57**

### **Relations with Authors**

(1) A collecting society may not without good and proper reason refuse to undertake for any particular author the administration and/or protection of the rights deriving from the economic rights of that author and the subject of the administration of the collecting society.

(2) A collecting society shall consult annually with the authors whose rights are transferred to it in order that the authors may express their views concerning the rules used to determine levels of remuneration, the methods used for the collection and distribution of remuneration and any other matter pertinent to the administration and/or protection of their rights. The collecting societies have to take into consideration these views during the processing of administrative procedures.

(3) Authors who transfer the administration and/or protection of their rights to a collecting society, together with the societies which represent them, shall be entitled to all relevant information concerning the activities of the collecting society.

(4) Where the author transfers all of his works to a collecting society for administration and/or protection, he shall give the society full information in

writing about the publication of those works and shall inform the society whenever he publishes a new work after the date of the transfer of his rights.

(5) Collecting societies shall draw up rules for the distribution of remuneration to authors. Distribution shall be effected at least once annually and shall to the highest possible extent be proportionate to the actual use made of the works.

(6) For each general category of authors and each form of exploitation, collecting societies shall fix a percentage of the remunerations collected to cover their expenditures. Authors shall be informed of the relevant percentage before they transfer or grant power of attorney over their rights. The fixed percentage may be increased only with the consent of the author or after notice, served one year in advance.

(7) An author or a collecting society shall be entitled to abrogate the agreement transferring economic rights where irrefutably good grounds exist for such action. Provided not less than three months' notice is given, the abrogation shall take effect from the end of the calendar year in which it is notified. If less than three months' notice is given, the abrogation shall take effect from the end of the following calendar year.

(8) The right of the author to grant or refuse authorisation to a cable operator for a cable retransmission may be exercised only through a collecting society; for all other matters the provision of article 54, paragraph (2) hereof is applicable. Where a rightholder has not transferred the management of his cable retransmission right to a collecting society, the collecting society which manages rights of the same category with the approval of the Ministry of Culture shall be mandated to manage his cable retransmission right. Where more than one collecting society manages rights of that category, the rightholder may be free to choose which of those collecting societies shall be mandated to manage his cable retransmission right. The author referred to in this paragraph shall have the same rights and obligations as the rightholders who have mandated the collecting society and he shall be able to claim those rights within a period of three (3) years from the date of cable retransmission of the broadcast.

(9) The provisions of the previous paragraph shall not apply to the rights exercised by a broadcasting organisation in respect of its own transmission, irrespective of whether the rights concerned are its own or have been transferred to it by other creators and/or other rightholders.

## **Article 58**

### **Application to Related Rights**

The provisions of Articles 54 to 57 shall be applicable mutatis mutandis to the administration and/or protection of the related rights regulated by the provisions of Section VIII of this Law.

## **SECTION X**

### **PROVISIONAL MEASURES**

## **Article 59**

### **Imposition of and Adherence to Specifications**

Presidential decrees may be issued, on the recommendation of the Ministry of Culture, laying down specifications for the equipment and other materials used in the making of reproductions of works with a view to preventing or limiting the use of such equipment and materials for purposes which conflict with the normal exploitation of copyright and related rights.

## **Article 60**

### **Use of Control Systems**

Presidential decrees may be issued on the recommendation of the Minister of Culture, making compulsory the use of equipment or systems which permit the designation of reproduced or used works and the extent and frequency of the reproduction or use, as long as they do not unreasonably prejudice the legitimate interests of the users.

## Article 61

### Control Labelling

Presidential decrees may be issued, on the recommendation of the Minister of Culture, stipulating that visual or sound or visual and sound recordings may circulate only when they carry on their outer casing or in another prominent position a special mark or control label of any type supplied by the competent collecting society, indicating that their distribution on the market or their circulation in some other manner, does not constitute an infringement of the rights of the author.

## Article 62

### Prohibition of Decoding

The distribution, use, and the possession with intent to use or distribute, of decoding equipment shall be prohibited without the permission of the broadcasting organizations which transmit encrypted programs by wire or over the air, including by cable or satellite.

## Article 63

### Stopping an Infringement or its Continuation

(1) Where a potential infringement of copyright is identified, such as where there is a clear intention to offer an unlawful public performance of a theatrical or cinematographic or a musical work, the competent local police authority shall prohibit the infringing act when requested to do so by the author or rightholder. When requested, the prosecuting authorities shall grant the police authority any necessary mandate. The same shall apply when the public presentation of a work has been in progress for more than two days without payment of due remuneration.

(2) The granting of a police license\* permitting the use of musical instruments or certifying the suitability of premises, or of any other license required in law for the use of premises for the performance of musical or other works, whose administration is assigned to a collecting society competent to authorize the public performance of works, shall be conditional on the deposition by the applicant of a written authorization for the performance, issued by that collecting society.

(3) Paragraphs (1) and (2) of this article shall also apply in case of infringement of the beneficiaries of related rights provided for in articles 46, 47 and 48 of this Law

\* The competence in paragraph (2) is transferred from police authorities to municipal and communal authorities according to article 41 paragraph (1) (6) (22) of Law 2212/1994 (Presidential Decree A` 90).

## SECTION XI

### LEGAL PROTECTION

## Article 63A

### Evidence

(1) On application by a party which has presented reasonably available evidence sufficient to support its claims of infringement or threat of infringement of the rights under this Law and has, in substantiating those claims, specified evidence which lies in the control of the opposing party, the court may order, on application by a party, that such evidence be presented by the opposing party. In the case of an infringement committed on a commercial scale, the court may also order, on application by a party, the communication of banking, financial or commercial documents under the control of the opposing party. The existence of a substantial number of copies shall be considered to constitute reasonable evidence of an infringement committed on a commercial scale. In any event, the court shall ensure the protection of confidential information (article 6, paragraphs 1 and 2 of Directive 2004/48).

(2) In the context of proceedings concerning an infringement of rights under this Law and in response to a justified and proportionate request of the claimant, the chairman of a multi-member court or the judge of a one-member court may order, even before the hearing date, that information on the origin and distribution networks of the goods or services which infringe any right stipulated in this Law be provided by the infringer and/or any other person who:

- a) was found in possession of the infringing goods on a commercial scale,
- b) was found to be using the infringing services on a commercial scale
- c) was found to be providing on a commercial scale services used in infringing

activities, or

d) was indicated by the person referred to in points a), b) or c) as being involved in the production, manufacture or distribution of the goods or the provision of the services.

(3) The information referred to in paragraph (2) shall, as appropriate, comprise:

a) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers,

b) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.

(4) Paragraphs (2) and (3) shall apply without prejudice to other statutory provisions which: a) grant the rightholder rights to receive fuller information, b) govern the use in civil or criminal proceedings of the information communicated pursuant to paragraphs (2) and (3) of this article, c) govern responsibility for misuse of the right of information, or d) afford an opportunity for refusing to provide information which would force the person referred to in paragraph (2) to admit to his own participation or that of his close relatives in an infringement of any right stipulated in this Law, or e) govern the protection of confidentiality of information sources or the processing of personal data (article 8 of Directive 2004/48).

(5) If a party is summoned to produce the evidence referred to in paragraph (1) and unjustifiably fails to produce such evidence, the claims of the party that sought the production or notification of evidence shall be considered as confessed. Any party that unjustifiably violates an order of the court under paragraph (2) shall be sentenced to pay, in addition to legal costs, a monetary fine of EUR 50,000.00 to 100,000.00, which shall devolve to the tax office.

## **Article 63B**

### **Legal Costs**

In cases covered by this Law, legal costs and other expenses shall include any other pertinent expenditure, such as witness costs, attorney fees, fees of experts and technical consultants of the parties and expenses made for the discovery of the

infringers, reasonably incurred by the successful party. The provisions of articles 173 et seq. of the Code of Civil Procedure apply to all other matters (article 14 of Directive 2004/48).

## **Article 64**

### **Injunction measures and Precautionary Evidence**

(1) In case of alleged infringement of copyright or related right provided for by articles 46 to 48 and 51 or the sui generis right of database makers, the court of first instance shall order the precautionary seizure of items in the possession of the alleged infringer that constitute means of commission or product or evidence of the infringement. Instead of precautionary seizure, the court may order the detailed inventory of such items, including the taking of photographs. Article 687 paragraph (1) of the Code of Civil Procedure shall apply in such cases and a provisional order shall be issued according to article 691 paragraph (2) of the Code of Civil Procedure (article 7 of Directive 2004/48).

(2) The court shall order injunction measures or precautionary evidence without needing to specify the works infringed or in threat of infringement.

(3) The court may issue against the alleged infringer an injunction intended to prevent any imminent infringement of the rights under this Law or to prohibit, on a provisional basis and subject, where appropriate, to a penalty payment under article 947 of the Code of Civil Procedure for each infringement or continuation of the infringements of that right. The procedure of articles 686 et seq. of the Code of Civil Procedure shall be applicable in order to ascertain the infringement of the ordered injunction or the pertinent provision of article 691 paragraph (2) of the Code of Civil Procedure. The court may make such continuation subject to the lodging of guarantees intended to ensure the compensation of the rightholder. The court may also order the precautionary seizure or delivery up of the goods suspected of infringing rights under this Law so as to prevent their entry into or movement within the channels of commerce.

(4) In the case of an infringement committed on a commercial scale, court may order the precautionary seizure of the property of the alleged infringer, including the blocking of his bank accounts. To that end, the court may order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.



(5) The injunction measures referred to in paragraphs (3) and (4) hereinabove may, in appropriate cases, be taken without the defendant having been heard, under article 687 paragraph (1) of the Code of Civil Procedure, in particular where any delay would cause irreparable damage to the rightholder. In that event, if the decision or the order of the court is not notified to the defendant before or during its enforcement, it shall be notified on the first business day following the enforcement; otherwise, any relevant procedural acts shall be null and void.

(6) The court may order the provisional measures referred to in paragraphs (1), (3) and (4) subject to the lodging by the applicant of security determined in the decision or provisional order and/or without guarantee and shall specify a time limit for the lodging of the action for the main case under article 693 paragraph (1) of the Code of Civil Procedure, which cannot be more than thirty days. If no action is lodged within the said time limit, the injunction shall be lifted ipso jure.

(7) Where the provisional measures are revoked due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of the rights under this Law, the court may order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any harm caused by those measures (articles 7 and 9 of Directive 2004/48).

## **Article 64A**

### **Injunction**

Rightholders may apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right. The same applies for the sui generis right of the maker of a database (article 8, paragraph 3 of Directive 2001/29).

## **Article 65**

### **Civil Sanctions**

(1) In any case of infringement or threat of infringement of copyright or related rights, the author or the rightholder may claim the recognition of this right, the discontinuation of the infringement and its omission in the future. The discontinuation of the infringement may include, at the request of the applicant:

a) recall from the channels of commerce of goods that have been found to be infringing rights under this Law and, in appropriate cases, with regard to materials and implements principally used in the creation or manufacture of those goods,

b) definitive removal from the channels of commerce, or

c) destruction

The rights of the first sentence of this paragraph shall be exercised by rightholders against intermediaries whose services are used by a third party to infringe rights under this Law (articles 10, paragraph 1, and 11 of Directive 2004/48).

(2) A person who by intent or negligence infringes copyright or a related right of another person shall indemnify that person for the moral damage caused, and be liable for the payment of damages of not less than twice the legally required or normally payable remuneration for the form of exploitation which the infringing party has effected without license.

(3) Instead of seeking damages, and regardless of whether the infringement was committed by intent or negligence, the author or the rightholder of the related right may demand either the payment of the sum accrued by the infringing party from the unlicensed exploitation of a work, or of the object of a related right, pursuant to Articles 46 to 48 and 51 of this Law, or the profit gained by the infringing party from such an exploitation.

(4) For each act of omission contributing to an infringement, the court may impose a fine of from 300,000 to 1 million drachmas payable to the author or to the rightholder of the related rights referred to in Articles 46 to 48 and 51 of this Law and imprisonment of up to one year. The same shall apply when the conviction is effected pursuant to the procedure under the provisional measures. All other matters shall be regulated pursuant to Article 947 of the Civil Procedure Code.

(5) The civil sanctions of this article apply accordingly in the case that the debtor did not pay the remuneration provided for by paragraph (3) of Article 18 hereof to a collecting society.

(6) The civil penalties of this article also apply in case of infringement of the copyright of the author of a database and of the sui generis right of the maker of a database.

## Article 65A

### Administrative Sanctions

(1) Any person who, without being entitled to and in violation of the provisions of this Law, reproduces, sells or otherwise distributes to the public or possesses with the purpose of distributing a computer program shall, irrespective of other sanctions, be subject to an administrative fine of EUR 1,000.00 for each illegal copy of the computer program.

(2) A street vendor or a standing person (outside a shop) caught to distribute to the public by sale or by other means, or to possess with the intention of distributing sound recordings on which a copyright work has been recorded, shall be imposed an administrative penalty equal to the product of the items of illegal recordings by twenty (20) euros for each sound recording according to the seizure report drafted during the arrest of the infringer. The minimum amount of the administrative penalty shall be defined to one thousand (1.000) euros.

(3) A presidential decree issued at the suggestion of the Minister of Economy and Finance and the Minister of Culture may amend the rates of the amounts and minimum rate of the administrative penalty mentioned in paragraphs (1) and (2) hereinabove.

(4) The competent authorities for the control of enforcement of these stipulations and of the enforcement of the provided sanctions shall be the Special Control Service (YPEE), the Police and the Customs authorities, which inform the rightholders via the Hellenic Copyright Organization after the finding of the violation.

(5) A common decision issued by the Minister of Economy and Finance and the Minister of Culture shall define the procedure of the penalty enforcement and collecting, the competent collecting services and any other detail necessary for the application of this article.

## Article 66

### Criminal Sanctions

(1) Any person who, in contravention of the provisions of this Law or of the provisions of lawfully ratified multilateral international conventions on the protection of copyright, unlawfully makes a fixation of a work or of copies,

reproduces them directly or indirectly, temporarily or permanently in any form, in whole or in part, translates, adapts, alters or transforms them, or distributes them to the public by sale or other means, or possesses with the intent of distributing them, rents, performs in public, broadcasts by radio or television or any other means, communicates to the public works or copies by any means, imports copies of a work illegally produced abroad without the consent of the author and, in general, exploits works, reproductions or copies being the object of copyright or acts against the moral right of the author to decide freely on the publication and the presentation of his work to the public without additions or deletions, shall be liable to imprisonment of no less than a year and to a fine from 2.900 to 15.000 Euros (article 8 , paragraph 1 of Directive 2001/29).

(2) The sanctions listed hereinabove shall be applicable to any person who, in contravention of the provisions of this Law, or of the provisions of lawfully ratified multilateral international conventions on the protection of related rights, engages in the following actions:

A) Without the permission of the performers: a) fixes their performance, b) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their performance c) distributes to the public the fixation of their performance or possesses them with the purpose of distribution, d) rents the fixation of their performance, e) broadcasts by radio and television by any means, the live performance, unless such broadcasting is rebroadcasting of a legitimate broadcasting, f) communicates to the public the live performance made by any means, except radio and television broadcasting, g) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their performance.

B) Without the permission of phonogram producers (producers of sound recordings): a) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, their phonograms, b) distributes to the public the above recordings, or possesses them with the purpose of distribution, c) rents the said recordings, d) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, their phonograms, e) imports the said recordings produced abroad without their consent.

C) Without the permission of producers of audiovisual works (producers of visual or sound and visual recordings) a) directly or indirectly, temporarily or permanently

reproduces by any means and form, in whole or in part, the original and the copies of their films, b) distributes to the public the above recordings, including the copies thereof, or possesses them with the purpose of distribution, c) rents the said recordings, d) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the original and the copies of their films e) imports the said recordings produced abroad without their consent f) broadcasts by radio or television or by any other means including satellite transmission, cable retransmission and communication to the public.

D) Without the permission of radio and television organizations: a) rebroadcasts their broadcasts by any means, b) presents their broadcasts to the public in places accessible to the public against payment of an entrance fee, c) fixes their broadcasts on sound or sound and visual recordings, regardless of whether the broadcasts are transmitted by wire or by the air, including by cable or satellite d) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their broadcasts, e) distributes to the public the recordings containing the fixation of their broadcasts, f) rents the recordings containing the fixation of their broadcasts, g) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their broadcasts (article 8, paragraph 1 of Directive 2001/29).

(3) If the financial gain sought or the damage caused by the perpetration of an act listed in paragraphs (1) and (2), hereinabove, is particularly great, the sanction shall be not less than two years imprisonment and a fine of from 2 to 10 million drachmas. If the guilty party has perpetrated any of the aforementioned acts by profession or at a commercial scale or if the circumstances in connection with the perpetration of the act indicate that the guilty party poses a serious threat to the protection of copyright or related rights, the sanction shall be imprisonment of up to ten (10) years and a fine of from 5 to 10 million drachmas, together with the withdrawal of the trading license of the undertaking which has served as the vehicle for the act. The act shall be likewise deemed to have been perpetrated by way of standard practice if the guilty party has on a previous occasion been convicted of a contravention pursuant to the provisions of the Article or for a violation of the preceding copyright legislation and sentenced to a non-redeemable period of imprisonment.

Any infringement of copyright and related rights in the form of felony shall be tried by the competent Three-member Court of Appeal for Felonies.

(4) Any person who did not pay the remuneration provided for by Article 18, paragraph (3) hereof to a collecting society shall be punished with the sanction of paragraph (1), (2) and (3).

The same sentence shall be imposed on the debtor who, after the issuance of the decision of the court of first instance, does not submit the declaration under the provisions of article 18, paragraph (6), of this Law.

(5) The sanctions specified in paragraph (1), hereinabove, shall be applicable likewise to any person who:

a) uses or distributes, or possesses with the intent to distribute, any system or means whose sole purpose is to facilitate the unpermitted removal or neutralization of a technical system used to protect a computer program;

b) manufactures or imports or distributes, or possesses with intent to distribute, equipment and other materials utilizable for the reproduction of a work which do not conform to the specifications determined pursuant to Article 59 of this Law;

c) manufactures or imports or distributes, or possesses with intent to distribute, objects which can thwart the efficacy of the above-mentioned specifications, or engages in an act which can have that result;

d) reproduces or uses a work without utilizing the equipment or without applying the systems specified pursuant to Article 60 of this Law;

e) distributes, or possesses with intent to distribute, a phonogram or film without the special mark or control label specified pursuant to Article 61 of this Law.

(6) Where a sentence of imprisonment is imposed with the option of redeemability, the sum payable for the redemption shall be 10 times the sum specified as per the case in the Penal Code.

(7) Where mitigating circumstances exist, the fine imposed shall not be less than half of the minimum fine imposable as per the case under this Law.

(8) Any person who proceeds to authorized temporary or permanent reproduction of the database, translation, adaptation, arrangement and any other alteration of the database, distribution to the public of the database or of copies thereof, communication, display or performance of the database to the public, shall be punished by imprisonment of at least one (1) year and a fine of one (1) to five (5) million drachmas.

(9) Any person who proceeds to extraction and/or re-utilization of the whole or of a

substantial part of the contents of the database without the database maker's authorization, shall be punished by imprisonment of at least one (1) year and a fine of one (1) to five (5) million drachmas (article 12 of Directive 96/9).

(10) When the object of the infringement refers to computer software, the culpable character of the action, as described in paragraph (1) of article 65A and under the prerequisites provided therein, shall be raised under the condition that the infringer proceeds in the unreserved payment of the administrative fee insofar as the infringement concerns a quantity of up to 50 computer programs.

(11) When the object of infringement concerns recordings of sound in which a copyright work has been recorded, the unreserved payment of an administrative fee according to the stipulation of paragraph (2) of article 65A and under the prerequisites provided therein, the culpable character of the action shall be raised under the condition that the infringement concerns a quantity of up to five hundred (500) illegal sound recording carriers.

(12) The payment of the administrative fee and the raising of the culpable character of the action, shall not relieve the infringers from the duty of buying off the copyright and related rights or from the duty of compensating and paying the rest expenses to the holders of these rights, according to the provisions of the relevant laws.

(13) In case of recidivism in the course of the same financial year the administrative fee provided for by article 65A shall double.

## Article 66A

### Technological Measures

(1) The term 'technological measures' shall mean any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorized by the rightholder of any copyright or any right related to copyright as well as the sui generis right of the maker of a database. Technological measures shall be deemed effective where the use of a protected work or other subject-matter is controlled by the rightholders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the

protection objective (article 6, paragraph 3 of Directive 2001/29).

(2) Without the rightholder's authorization, the circumvention of any effective technological measures, which the person concerned carries out in the knowledge or with reasonable grounds to know that he is pursuing that objective shall be prohibited (article 6, paragraph 2 of Directive 2001/29).

(3) It shall be prohibited without the permission of the rightholder, to engage in the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which:

a) are promoted, advertised or marketed for the purpose of circumvention of, or b) have only a limited commercially significant purpose or use other than to circumvent, or

c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures (article 6, paragraph 2 of Directive 2001/29).

(4) The practice of activities in violation of the above provisions shall be punished by imprisonment of at least one year and a fine of 2.900 to 15.000 Euros and entails the civil sanctions of article 65 of Law 2121/1993. The court of first instance may order an injunction in accordance with the Code of Civil Procedure, the provision of article 64 of Law 2121/1993 also being applicable (article 6, paragraphs 1 and 2 of Directive 2001/29).

(5) Notwithstanding the legal protection provided for in paragraph (2) of this article, as it concerns the limitations (exceptions) provided for in Section IV of Law 2121/1993, as exists, related to reproduction for private use on paper or any similar medium (article 18), reproduction for teaching purposes (article 21), reproduction by libraries and archives (article 22), reproduction for judicial or administrative purposes (article 24), as well as the use for the benefit of people with disability (article 28A), the rightholders should have the obligation to give to the beneficiaries the measures to ensure the benefit of the exception to the extent necessary and where such beneficiaries have legal access to the protected work or subject-matter concerned. If the rightholders do not take voluntary measures including agreements between rightholders and third parties benefiting from the exception, the rightholders and third parties benefiting from the exception may request the assistance of one or more mediators selected from the list of mediators drawn up by the Hellenic Copyright Organization. The mediators shall make

recommendations to the parties. If no party objects within one month from the forwarding of the recommendation, all parties shall be considered to have accepted the recommendation. In any other case, the dispute shall be settled by the Court of Appeal of Athens trying at first and last instance. These provisions shall not apply to works or other subject-matter available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them (article 6, paragraph 4 of Directive 2001/29).

## **Article 66B**

### **Rights - Management Information**

(1) The term 'rights management information' shall mean any information provided by rightholders which identifies the work or other subject-matter protected by a related right or the sui generis right of the maker of a database, and which identifies the author or any other rightholder, or information about the terms and conditions of use of the work or other subject-matter, and any numbers or codes that represent such information (article 7, paragraph 2 of Directive 2001/29).

(2) It shall be prohibited for any person to knowingly perform without the permission of the rightholder any of the following acts: a) the removal or alteration of any electronic rights-management information, b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject-matter protected by a related right or the sui generis right of the maker of a database, from which electronic rights management information has been removed or altered without authority, if such person knows, or has reasonable grounds to know that by so doing he is inducing, enabling, facilitating or concealing an infringement of any copyright or related right or the sui generis right of the maker of a database (article 7, paragraph 1 of Directive 2001/29).

(3) The violation of the above provisions shall be punished by imprisonment of at least one year and a fine of 2.900 to 15.000 Euros and shall entail the civil sanctions of article 65 of Law 2121/1993. The court of first instance may order an injunction in accordance with the Code of Civil Procedure, the provision of article 64 of Law 2121/1993 also being applicable (article 7 of Directive 2001/29).

## **Article 66C**

### **Publication of decisions**

Decisions of civil or criminal courts concerning rights under this Law may, at the request of the applicant and at the cost of the infringer, order the appropriate measures to be taken for the propagation of information relating to the decision, including the posting of the decision, as well as its publication, in summary or in its entirety, in the mass media or the internet.

## **Article 66D**

### **Codes of Ethics and Information Exchange**

(1) The business or professional associations concerned, as well as collecting societies or collective protection societies, shall prepare codes of ethics with the purpose of contributing, at national, Community or international level, to the enforcement of the rights under this Law and shall recommend the use of codes in optical discs in order to identify the origin of their manufacture. The codes of ethics and any evaluation of their implementation shall be forwarded to the European Commission.

(2) The national correspondent for the rights under this Law shall be the Hellenic Copyright Organization.

## **SECTION XIII**

### **FINAL AND TRANSITIONAL PROVISIONS**

## **Article 67**

### **Applicable Legislation**

(1) Copyright in a published work shall be governed by the legislation of the State in which the work is first made lawfully accessible to the public. Copyright in an unpublished work shall be governed by the legislation of the State in which the author is a national.

(2) Related rights shall be governed by the legislation of the State in which the performance is realized, or in which the sound or visual or sound and visual recording is produced, or in which the radio or television broadcast is transmitted or in which the printed publication is effected.

(3) In all cases, the determination of the subject, object, content, duration and limitations of the right shall be governed by the legislation applicable pursuant to paragraphs (1) and (2), hereinabove, with the exception of any exploitation license arrangement. The protection of a right shall be subject to the legislation of the State in which the protection is sought.

(4) Paragraphs (1), (2) and (3), hereinabove, shall apply except where they run contrary to any international convention ratified by Greece. In the case of States not conjoint with Greece through the ratification of an international convention, paragraphs (1), (2) and (3), hereinabove, shall be applicable as regards the protection of copyright or of any particular object of copyright or of any particular related right, provided that the legislation of the relevant state offers adequate copyright protection to works first made accessible to the public in Greece and to related rights stemming from acts effected in Greece.

## **Article 68**

### **Law not Retroactive**

(1) Works for which the duration of protection has expired prior to the entry into force of this Law shall remain without copyright protection.

(2) The protection prescribed under Article 2(3) and Articles 40 to 53 shall become applicable to computer programs created in the past and to related rights stemming from acts effected in the past from the date of the entry into force of this Law.

(3) Contracts concluded before the entry into force of this Law shall be governed by the preceding legislation for one year from the date of the entry into force of this Law.

## **Article 68A**

### **Transitional Law**

(1) The terms of protection provided for in articles 29, 30, 31 and 32 of this Law

shall apply to all works and subject matter which are protected by related rights in at least one Member State on 1.7.1995 pursuant to national provisions on copyright property and related rights. Third parties who undertook the exploitation of works or subject matter which are protected by related rights that had become common possession before the entry into force of this Law may continue the said exploitation in the same ways, with the same means and to the same extent until 1.1.1999.

(2) The agreements concerning the exploitation of works and other protected subject matter which were valid before 1.1.1995 are subject as of 1.1.2000 to the provisions of article 35, paragraph (3), of this Law, provided that they expire after this date. If an international co-production agreement concluded before 1.1.1995 between a co-producer from a Member State and one or more co-producers from other Member States or third countries expressly provides for a geographic distribution system of the exploitation rights of the co-producers for all means of communication to the public without distinction between the arrangements applicable for communication to the public by satellite and the provisions applicable to other means of communication and if the communication to the public by satellite would prejudice the exclusivity, particularly the language exclusivity, of one of the co-producers or his assignees in a specific territory, the consent of the beneficiary of the said exclusivity, whether he is the co-producer or an assignee, shall be required for the authorisation of communication to the public by satellite by a co-producer or his assignees.

## **Article 69**

### **Establishment of the Hellenic Copyright Organization**

(1) A legal entity under private law placed under the jurisdiction of the Ministry of Culture shall be established at a registered address in Athens under the title The Hellenic Copyright Organization. The purpose of the Hellenic Copyright Organization shall be the protection of authors and of holders of related rights, the supervision of the collecting societies, the implementation of this Law and of related international conventions, the preparation of legal studies on matters pertaining to copyright and related rights and the representation of Greece in dealings with all the competent international organizations and with the Instruments of the European Community. The Hellenic Copyright Organization may, in addition, convene seminars of any type for the purposes of providing information and training to judges, lawyers, administrators, authors, holders of

related rights, students and other interested parties on matters pertaining to copyright and related rights. In no circumstance shall the Hellenic Copyright Organization have as its purpose the administration of rights pursuant to Articles 54 to 58 of this Law.

(2) The Hellenic Copyright Organization shall be subsidized with a contribution of 1% of the annual gross revenue of each collecting society, payable by 31<sup>st</sup> October of each year, on the basis of the balance sheet of the previous year, and received in accordance with the Public Revenue Collection Code. The annual balance sheets of collecting societies shall be submitted to the Hellenic Copyright Organization and the Ministry of Culture. The same shall apply to the collective protection societies obliged to draw up an annual balance sheet, which shall be submitted to the Hellenic Copyright Organization and the Ministry of Culture. Gross revenue shall be the revenue defined in the Unified Accounting Plan. The Hellenic Copyright Organization may also receive grant financing from international organizations and the Instruments of the European Community, gifts and bequests, grants from any third party and the revenues due to it for the rendering of services. For the commencement of its operation the Hellenic Copyright Organization shall receive a one-off grant of 20 million drachmas from the budget of the Ministry of Culture. The Hellenic Copyright Organization may also be subsidised from the funds of the Ministry of Culture or the proceeds of the LOTTO and PRO-TO lotteries.

(3) Matters pertaining to the main focus and detailed field of competence of the Hellenic Copyright Organization within the framework of its overall purpose, the exact manner of its overall purpose, the exact manner of its powers and the procedure relating to its exercise of them, its management and the supervision of its administration, its internal structure and personnel, the fees it charges for services which may, as required, be adjusted by decision of the Minister of Culture, the determination of its scientific, management and ancillary staffing requirement, its remuneration and every other detail shall be determined by Presidential Decree issued at the joint suggestion of the Minister of Culture, the Minister to the Office of the Prime Minister and the Minister of Finance.

(4) The Hellenic Copyright Organization shall be a legal entity for public welfare. The Hellenic Copyright Organization shall not be part of the public sector and shall not be subject to the provisions of public accounting nor the provisions on public commissions and public works or other related provisions. The Hellenic Copyright Organization shall operate for the public benefit under the rules of private economy and shall be governed by private law.

(5) The Hellenic Copyright Organization shall enjoy all administrative, economic and judicial exemptions as well as all procedural and essential privileges of the State.

## **Article 70**

### **Collecting Societies Already Functioning**

(1) Collecting societies which are already functioning at the date of the promulgation of this Law shall, within 12 months of the entry into force of this Law, lodge with the Ministry of Culture the statement and copy of their rules required under Article 54 (4) of this Law and generally shall carry out all other actions necessary to comply with this Law.

(2) Societies of authors which at the date of the promulgation of this Law are carrying on the administrative activity referred to in Article 5 of Law 4301/1929 and Article 43 of Law 1597/1986 may continue to carry on that activity for 24 months from the date of the entry into force of this Law.

## **Article 71**

### **Implementation of Directives of the European Community**

(1) Articles 2(3) and 40 to 45 of this Law shall constitute implementation of Council Directive 91/250/EEC of May 14, 1991, on legal protection of computer programs.

(2) Articles 3(1) d), 9, 34, 46, 47, 48, 49, 52 and 53 of this Law shall constitute implementation of Council Directive 92/100/EEC of November 19, 1992, on rental right and lending right and on certain rights related to copyright in the field of intellectual property.

(3) Articles 35 paragraphs 3 and 4, 57 paragraphs 8 and 9, 52h and 68A paragraph 2 of this Law are added in application of the Council Directive 93/83/EEC of 27<sup>th</sup> September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission.

(4) Articles 11, 29 paragraph 1, 30, 31, 51A, 52 c, d, e, f and g, as well as 68A paragraph 1 of this Law are added in application of the Council Directive 93/98/EEC of 29<sup>th</sup> October 1993 harmonising the term of protection of copyright and

certain related rights.

(5) Articles 2a, 3 paragraph 3, 45A, 64 last sentence, 65 paragraph 6, 65 paragraph 9 and 10, 72 paragraph 8 of this Law are adopted in application of Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases.

(6) Articles 3 paragraphs 1, 28A, 28B and 28C, 46 paragraphs 2, 47 paragraphs 1 and 2, 48 paragraphs 1, 52 d, 64A, 66 paragraphs 1 and 2, 66A and 66B of this Law are adopted in application of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.

(7) Article 5 constitutes the implementation of Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art.

(8) Articles 10, paragraphs 3, 63A, 63B, 64, 65, paragraphs 1, 66C and 66D constitute the implementation of Directive 2004/48 of the European Parliament and of the Council of 27 September 2001 on the enforcement of intellectual property rights.

## Article 72

### Repeal of Provisions and Regulation of other Matters

(1) From the date of the entry into force of this Law every provision which runs counter to this Law or deals with matters which are regulated by this Law shall be repealed. Specifically, the following laws and parts of laws shall be repealed: GYPG/1909 and 2387/1920, Legislative Decree 12/15 of June 1926, Laws 4186/1929, 4301/1929 and 4489/1930, Article 2(1) of Legislative Decree 619/1941, Legislative Decree 2179/1943, Laws 763/1943, 1136/1944 and 56/1944, Article 12 of Law 3188/1995, Legislative Decree 4264/1962, Article 4 of Law 1064/1980, Articles 5 and 10 to 22 of Law 1075/1980, Article 19 of Law 1348/1983 and Articles 3, 40, 43 and 46 of Law 1597/1986.

(2) Law 988/1943 shall remain in force.

(3) Collecting societies established and functioning pursuant to Articles 54 to 58 of this Law shall have the right to organize conferences on matters pertaining to copyright and related rights and to participate in such conferences. Articles 54 to

58 of this Law shall not prevent the concluding of reciprocal contracts between collecting societies established in other countries and collecting societies established in Greece.

(4) Until July 1, 1994, paragraphs (1), (2) and (3) of Article 49 of this Law shall not be applicable to phonograms used for presentations to the public in cafes in communes with populations of less than 5,000 inhabitants.

(5) Article 38(4) a) of this Law shall apply to the publication of any photograph whatsoever.

(6) Paragraph (6) hereto was repealed by article 4 paragraph (2) of Law 3524/2007.

(7) The association under the name Association of Greek Composers (EMSE) may continue to exercise its managing activity as a collecting society until December 1999.

(8) The regulations on the right of the author of a database and the sui generis right of the maker of a database shall be without prejudice to provisions concerning in particular copyright, related rights or any other rights or obligations subsisting in the data, works or other materials incorporated into a database, patent rights, trade marks, design rights, the protection of national treasures, laws on restrictive practices and unfair competition, trade secrets, security, confidentiality, data protection and privacy, access to public documents and the law of contract.

## SECTION XIII

### CULTURAL MATTERS AND OTHER ARRANGEMENTS

Articles 73 to 76 are omitted as they are not relevant to copyright or related rights.



## **SECTION XIV**

### **ENTRY INTO FORCE**

#### **Article 77**

With the exception of Article 69, this Law shall enter into force from the date of its promulgation in the Official Gazette. Article 69 of this Law shall enter into force six months after the date of the promulgation of this Law in the Official Gazette.

We command the promulgation of this Law in the Official Gazette and its implementation as a law of the State.

